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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, June 6, 1995, at 12 noon.

Senate

FRIDAY, MAY 26, 1995

(Legislative day of Monday, May 15, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Lord God, Sovereign of our Nation, You led our forefathers to declare in our Constitution that the function of government is to establish justice, promote the general welfare, and secure the blessings of liberty for our people. We are here in this Senate to preserve our people's right to life, liberty, and the pursuit of happiness. Today, we continue the discussion of the growing problem of violence and terrorism in our land that threatens these very blessings. The spirit of fear is rampant as a result of those who perpetrate acts of violence. Empower the Senators as they take incisive action to establish stronger laws to combat the illusive and dangerous forces of organized terrorism. Help them to strengthen the methods of investigation, apprehension, and punishment of those who willfully cause suffering through treasonous acts of terrorism against the Government.

Today, as we move forward to act decisively on this antiterrorism legislation, we all praise You that You do not allow the violent to triumph. In Your holy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. SPECTER. Mr. President, on behalf of Senator DOLE, I wish to announce that the leader time has been reserved and the Senate will immediately resume consideration of S. 735, the antiterrorism bill, and to tell all Senators, in accordance with the majority leader's request, that rollcall votes are anticipated today on or in relation to amendments to the antiterrorism bill.

COMPREHENSIVE TERRORISM PREVENTION ACT

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

The legislative clerk read as follows:

A bill (S. 735) to prevent and punish acts of terrorism, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Hatch amendment No. 1199, in the nature of a substitute.

Mr. SPECTER addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished President pro tempore.

Mr. President, I have sought recognition this morning to comment on the pending legislation, which is obviously a bill of tremendous importance in light of the recent bombing of the Federal building in Oklahoma City on April 19 and before that the bombing of the World Trade Center some 2 years ago.

Terrorism has been an enormous problem internationally for decades, and now terrorism has struck on the shores and in the heartland of the United States. In considering legislation to deal with this very critical problem, Mr. President, we should ever be mindful that an appropriate balance has to be struck between public safety and the constitutional rights of the citizens under the Bill of Rights which has served our country so well since its adoption in 1791.

The pending legislation has appended to it the habeas corpus reform bill which has been introduced by the distinguished chairman of the committee, Senator HATCH, and myself under the caption of the Specter-Hatch bill, S. 623, and it is legislation which is long overdue to make the death penalty a meaningful deterrent.

Last year, with the passage of the crime bill, Federal legislation was enacted which provides for the death penalty for those responsible for the bombing of the Federal building in Oklahoma City. The addition to this legislation of habeas corpus reform is important because some cases have been pending for as long as 20 years. Such delays really makes a virtual nullity of the death penalty because, in order to be an effective deterrent, the punishment must be swift and the punishment must be certain. In most of the

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

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cases where these long delays have eventuated, the prosecutions characteristically arise in the State courts and go through with the judgment of sentence of death ultimately affirmed by the highest State court and then habeas corpus proceedings in the Federal court.

The conduct in Oklahoma City, the bombing of the building and the murder of the innocent children, women, and men, is prosecutable under both Federal and State laws, and there is a slightly different habeas corpus procedure with respect to cases that originate under Federal jurisdiction. The Specter-Hatch language addresses both types of cases, and I think it is very, very important to have it contained in this bill.

There are other measures in the pending legislation, Mr. President, which I think require our very calm and deliberate consideration, such as the provision which provides for secret proceedings to deport alien terrorists. While deportation proceedings are characteristically described as a civil proceeding, under the due process clause of law has been held to apply, and the due process clause of the 14th amendment characteristically incorporates most of the specific provisions of the Bill of Rights including the right of confrontation.

I have grave reservations that any kind of a secret proceeding can pass constitutional muster. It is my thought that we may be able to solve the problem by deporting people suspected of being terrorists or known terrorists because they are in this country illegally. We all know that there are many aliens in the United States illegally, but there are not sufficient resources to deport all of them. It would be entirely possible for us to seek to deport aliens who are here illegally where there was cause to believe that they are terrorists but to deport them not through secret proceedings because they are terrorists but because they are in the United States illegally.

Toward that end, I think we can abbreviate the procedures for deportation, including limiting appellate review. I think it is entirely possible to have, constitutionally, a definite period of preventive detention, and if there are defenses such as asylum, they can be litigated in relatively short order so that deportation of illegal aliens may be achieved without a conflict with the constitutional right of confrontation.

Similarly, Mr. President, I am concerned—and I have expressed this before in the hearings held in the terrorism subcommittee of the Judiciary Committee, which I chair—about the provisions which would enable the Attorney General of the United States to classify an organization as engaged in terrorist activities and then deprive that organization of rights which are characteristically protected under the first amendment's freedom of association. While the bill provides for de novo review by the court, here again there are provisions for secret proceedings which I believe may run afoul of the U.S. Constitution.

With respect to any wiretapping provisions which may be added to the bill, I think they will require our very, very close scrutiny to be sure we are preserving the constitutionally protected rights of those who are subject to the wiretapping.

Mr. President, I will also take this opportunity to make some comments on the incidents at Ruby Ridge, ID, and Waco. With the Senate being fully occupied for the last several days on the budget, I did not have an opportunity to do so before, but it fits right in at this juncture, and I shall be relatively brief in summarizing some of the preliminary findings which I have come to.

As the CONGRESSIONAL RECORD will show—and my distinguished colleague, the chairman of the Judiciary Committee, is in the Chamber—it has been my view that we ought to hold hearings on Waco and Ruby Ridge promptly. And by that I mean on or before August 4. I am well aware of the consideration of not impeding the Federal Bureau of Investigation's inquiries into Oklahoma City. But as I said some time ago, in conversations with the Director of the FBI, he thought that a period by mid-August, 8 to 10 weeks from the time of our conversation as I reported it on the Senate floor, would allow ample time for the FBI to complete its Oklahoma City investigation without having any problems created by a Senate inquiry of the full Judiciary Committee.

But in the absence of that full inquiry and in the absence of the setting of a date, I had said that I was going to make a preliminary inquiry myself. I did have occasion to report very briefly on these matters last week, but I want to comment a little more extensively this morning on my preliminary findings.

With respect to the incident at Ruby Ridge, ID, which came to a head back on August 21, 1992, I have had occasion to talk to a number of the people who have knowledge of that matter, including FBI Director Louis Freeh; FBI Deputy Director Larry Potts; the Director of the Bureau of Alcohol, Tobacco and Firearms, John Magaw; Jerry Spence, the attorney for Mr. Weaver; Mr. Weaver, whom I talked to when I was in Des Moines earlier this month in the presence of his attorney, Michael Mooma, Esq. I have also talked to Randy Day, Esq., the Boundary County attorney in Idaho who was considering possible State prosecutions arising out of that incident. During the course of my conversations with Mr. Weaver, his daughters Sarah, Rachel, and Alicia, ages 19, 13, and 3, were also present.

One of the critical aspects of the matter involving Mr. Weaver concerns the issue as to how the entire incident arose. In my meeting with Mr. Weaver, he described the incident as starting out when an undercover agent associated, as Mr. Weaver thought, with the Bureau of Alcohol, Tobacco and Firearms, came to purchase sawed-off shotguns from Mr. Weaver. As Mr. Weaver himself recounted the incident, he did provide two sawed-off shotguns to the ATF undercover agent.

In my later conversations with the Director of the Alcohol, Tobacco and Firearms unit, John Magaw, he said that, during the course of the trial, there was an acquittal of Mr. Weaver on grounds of entrapment. Mr. Magaw described it as borderline entrapment, but it raises a fundamental question as to the appropriate course of conduct of the Bureau of Alcohol, Tobacco and Firearms on initiating such a matter through an undercover agent, a confidential informant, where the incident has all the preliminary earmarks of entrapment. And that, in fact, was the conclusion of the court, and that is the concession made by the director of the Alcohol, Tobacco and Firearms unit.

Mr. President, a more critical aspect of what happened at Ruby Ridge, ID, of the tragedy which occurred there—including the killing of a deputy U.S. marshal, the killing of Mr. Weaver's son, Sam Weaver, the killing of Mr. Weaver's wife, Vicky—is the issue of the change in the FBI's rules of engagement from the standard shooting policy. On that issue, there is a direct conflict between representations made by Mr. Eugene F. Glenn, who is now the special agent in charge at the Salt Lake City office of the FBI and Deputy Director Larry Potts of the FBI.

In my conversation with Mr. Potts on May 17 of this year, Mr. Potts advised me that there were never any changes in the rules of engagement and that he, Mr. Potts, had no authorization to change the deadly force policy.

We do know, in the course of the incidents there, that Mrs. Weaver was killed by the bullet of an FBI sharpshooter. The contention has been made by officials of the Federal Bureau of Investigation that that was a matter which was necessary to defend other agents who were involved in the effort to take Mr. Weaver into custody.

There is a very significant question as to the circumstances of that shooting with respect to a Bureau representation that Mrs. Weaver was shot through a door, which raises the inference and suggestion that the shooter might not have been able to see Mrs. Weaver, contrasted with the representation of others that the door had a glass pane so that, in fact, the shooter may have been able to see Mrs. Weaver. That is not ascertainable based upon what I know of the facts, because there is a possibility of glare, there is a possibility of some obstruction of vision even with a pane of glass, but that is certainly something which requires inquiry.

Focusing in specifically on the conflict or at least apparent conflict between Mr. Potts and Mr. Glenn—as I have said, Deputy Director Potts told me that there were never any changes

in the rules of engagement and that he had no authorization to change the deadly force policy of the FBI.

In a letter from Special Agent Glenn to Michael A. Shaheen, the Director of the Office of Professional Responsibility at the Department of Justice, seeking an investigation into what occurred, Mr. Glenn refers specifically to adjustments to the Bureau's standard shooting policy at Ruby Ridge, and he attributes those to Deputy Director Potts.

This statement appears at page 6 of the letter from Mr. Glenn to Mr. Shaheen:

On August 22, 1992, then Assistant Director Potts advised during a telephonic conversation with SAC

That means special agent in charge Glenn.

that he had approved the rules of engagement, and he articulated his reasons for his adjustments to the Bureau's standard shooting policy. During the ten days of the Ruby Ridge stand-off, there were several occasions when SAC Glenn and AD Potts telephonically communicated with one another, and during these conversations they mutually agreed that the rules of engagement should continue to exist. On Wednesday, August 26, 1992, AD Potts approved the FBI returning to the standard shooting policy. This is reflected in the SIOC Log, page 13, item 7.

Then it follows to have the specification as to what occurred there.

When Mr. Glenn requested this special investigation, he draws this conclusion at page 1 of the letter:

* * * investigative deficiencies reveal a purpose to create scapegoats and false impressions, rather than uncovering or reinforcing the reality of what happened at Ruby Ridge.

Mr. President, I ask unanimous consent that the full text of this letter from Mr. GLENN to Mr. Shaheen be printed at the conclusion of my statement.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, I shall abbreviate these comments because we are in the middle of the consideration of the broader terrorism bill, but these comments are directly relevant to this bill. I know, however, that others are waiting to speak. While I will have more to say about this at a later time, I will condense these comments at this time.

Relating to the incident at Ruby Ridge, there are questions which have already been raised by many as to why Mr. Potts was made the Deputy Director of the FBI while this matter was pending and certainly before there was a congressional inquiry by the U.S. Senate or the House of Representatives. Those are among my reasons for thinking that a congressional inquiry into Ruby Ridge should have been held a long time ago, but at least ought to be held as promptly as possible.

Mr. President, turning for a few moments to the incident at Waco, TX, which reached its conclusion on April 19, 1993, let me say at the outset as emphatically as I can that whatever happened at Waco, TX, whatever happened at Ruby Ridge, ID, there is absolutely no justification for what happened at the Oklahoma City bombing on April 19 of this year.

But I do believe that it is more than coincidence that the incident at Waco occurred on April 19 and the incident at Oklahoma City occurred on the same day 2 years later. I believe it is vital in our democracy that accountability be present at the highest levels of our Government. It has always been my view that there should be a Senate inquiry on Waco, and I expressed that view back in the middle of the summer of 1993 shortly after the Waco incident occurred. My comments were corroborated on the floor of the Senate by the then-chairman, Senator BIDEN, who confirmed that I had been pressing for an inquiry into Waco at that time.

We live in the greatest democracy in the history of the world, but we have to remember, especially those of us in Washington, DC, and within the beltway, that we govern by the consent of the governed and that the right of the Government to govern depends upon the Government's recognizing the rights of individual citizens.

There is no mere coincidence between the existence of the Bill of Rights and the stability of the American Government. The items in the Bill of Rights have to be very, very carefully safeguarded in every respect. It is a fundamental constitutional duty of the Congress to have oversight. That oversight has not been held with respect either to Waco or to Ruby Ridge, and I believe that these matters are directly related to the pending legislation which we are considering.

In just a few minutes, I think the briefest way to set some of the questions on the record which require answering by our congressional hearing would be to refer to the report and recommendations filed by Prof. Alan Stone of Harvard with other recommendations submitted to the then-Deputy Attorney General of the United States, Philip Heymann.

Professor Stone was one of a group of panelists who was requested by the FBI to prepare a forward-looking report suggesting possible changes in Federal law enforcement in light of what happened at Waco. These are a few of the comments from Professor Stone.

At page 1 of his report, he says:

. . . Neither the official investigation nor the Dennis evaluation has provided a clear and probing account of the FBI tactics during the stand-off and their possible relationship to the tragic outcome at Waco.

Then going on a few sentences later:

I have concluded that the FBI command failed to give adequate consideration to their own behavioral science and negotiation experts. They also failed to make use of the agency's own prior successful experience in similar circumstances. They embarked on a misguided and punishing law enforcement strategy that contributed to the tragic ending at Waco.

As a physician, I have concluded that there are serious unanswered questions about the basis for the decision to deploy toxic CS gas in a closed space where there were 25 children, many of them toddlers and infants.

Skipping ahead to page 24, Professor Stone goes on to say:

One might think that the highest priority after a tragedy like Waco would be for everyone involved to consider what went wrong and what would they now do differently. I must confess that it has been a frustrating and disappointing experience to discover that the Justice Department's investigation has produced so little in this regard.

Moving ahead now to page 30 briefly:

The FBI needs a better knowledge base about the medical consequences of CS gas.

It is my opinion that the AG—

The Attorney General.

—was not properly informed of the risks to infants and small children posed by CS gas.

Continuing a few sentences later:

The FBI, the Justice Department, and all of law enforcement that uses CS gas ought to have as clear an understanding of its medical consequences as possible.

Then on his final page, page 31, under a caption ''Final Word,'' there is this statement:

There is a view within the FBI and in the official reports that suggests the tragedy was unavoidable. This report is a dissenting opinion from that view.

Then a final sentence:

It is my considered opinion that the failings of the FBI at Waco involved no intentional misconduct.

Mr. President, in order to save time, I ask unanimous consent that the full text of this report by Professor Stone be printed at the end of my statement this morning.

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

(See exhibit 2.)

Mr. SPECTER. Mr. President, on the citations which I refer to and in the full text of what Professor Stone has raised, which will be apparent to those who will see it in the CONGRESSIONAL RECORD, there are many unanswered questions as to what happened at Waco, just as there are many unanswered questions as to what happened at Ruby Ridge. It is my hope that we will have a Senate inquiry just as promptly as possible.

I think it is vital that there be accountability at the highest levels of Government and that the public will be assured that the Congress will fully carry out its responsibilities for oversight under our constitutional responsibility.

Yesterday, we had scheduled a hearing involving the militia movement in the subcommittee of Judiciary which I chair. That hearing, regrettably, had to be postponed because we were voting continuously all day long. But yesterday afternoon, I put into the RECORD the prepared statements of some witnesses that came from the militia movement. In brief conversation I had with those individuals, they expressed their concern about what the Government had done and their gratification

that at least the subcommittee was making an inquiry into what had gone on. If we discharge our duties, Mr. President, we can provide a safety valve to let the citizens of America know that their constitutional rights are being respected and that there will be congressional oversight no matter where the blame may lie at the highest level of the Federal Government, if there is any blame.

I do not prejudge what went on at Ruby Ridge or at Waco, but I am absolutely convinced that there are many, very, very serious questions as to the governmental action at Ruby Ridge and Waco, and I am convinced that the safety valve and venting possible through a Senate full inquiry is very vital as we consider these problems of terrorism and move ahead to provide better protection to the American people from domestic terrorism and at the same time guarantee that the constitutional rights are preserved.

I thank the Chair.

EXHIBIT 1

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Salt Lake City, UT, May 3, 1995.

MICHAEL E. SHAHEEN,
Office of Professional Responsibility,
U.S. Department of Justice,
Washington, DC.

DEAR MR. SHAHEEN: The purpose of this letter is to request the Office of Professional Responsibility (OPR) conduct an investigation into the conduct of FBI Associate Special Agent in Charge (A–SAC) Charles Mathews, III and possibly others during the period A–SAC Mathews served on special assignment in Washington, D.C. from October through December, 1994, preparing the Administrative Summary Report regarding the conduct of FBI personnel involved in the Ruby Ridge matter.

As a key participant in the events of Ruby Ridge, I believe I was not adequately or fully interviewed, yet the investigative report was relied upon in proposing discipline against me and other FBI Agents. As is explained below, this and other investigative deficiencies reveal a purpose to create scapegoats and false impressions, rather than uncovering or reinforcing the reality of what happened at Ruby Ridge.

A–SAC Mathews was provided with the 1994 Ruby Ridge report of Department of Justice (DOJ) Attorney Barbara Berman, along with sixteen issues raised by the DOJ during their review of the Berman Report. These issues concern alleged misconduct by FBI employees. His assignment as preparer of the Administrative Summary Report was: evaluate existing documentation contained in the Berman report for evidence of misconduct, review additional documentation within the FBI that was not a part of the Berman report, and conduct or have conducted appropriate investigation to either substantiate or refute each allegation.

INVESTIGATIVE PROCEDURAL REQUIREMENTS

As is clearly documented in subsequent portions of this letter, A–SAC Mathews conducted his administrative review with little regard to FBI policy and procedure, and as such his Administrative Summary Report is critically flawed.

For example, A–SAC Mathews did not follow the FBI Manual Of Administrative Operations and Procedures (MAOP) as it pertains to interviews of employees under criminal or administrative inquiry. Section 13–4 of the MAOP is particularly relevant as follows:

''13–4 Interviews of Employees Involved

''(1) Interviews of employees involved in allegations of criminality or serious misconduct should be conducted at the earliest logical time and in a forthright manner. There should be no evasiveness on the part of the Bureau official conducting the interview.

''(2) The employee should be fully and specifically advised of the allegations which have been made against him/her in order that he/she may have an opportunity to fully answer and respond to them. . . .

''(3) Such interviews must be complete and thorough with all pertinent information obtained and recorded so that all phases of the allegations may be resolved. . . .

''(4) The inquiry shall not be complete until the specific allegations that may justify disciplinary action are made known to the employee who may be disciplined and the employee is afforded reasonable time to answer the specific allegations. The employee's answers, explanations, defenses, etc., should be recorded in the form of a signed, sworn statement which should specifically include the allegations made against the employee in an introductory paragraph. The statement is to be prepared following an in-depth interview of the employee by the division head or designated supervisory representative. The employee is not merely to be asked to give a written response to the allegations, but is to be interviewed in an interrogatory fashion, and a signed, sworn statement prepared from the results by the interviewing official. . . .''

MATHEWS ACTIONS

I have enclosed and request your review of the following: (1) the form ''Warning and Assurance to Employee Required to Provide Information'' (FD–645) which states, ''This inquiry pertains to Allegations of misconduct relating to the Rules of Engagement established for the Ruby Ridge critical incident and whether the FBI fully and adequately participated in the investigation/prosecution of Weaver/Harris,'' and (2) the compelled signed statement of Eugene F. Glenn dated December 8, 1994, provided by A–SAC Mathews and Supervisory Special Agent (SSA) Jerry R. Donahoe, in which paragraph two reads, ''I have been informed that this inquiry pertains to allegations of misconduct relating to the Rules of Engagement (ROE) established for the Ruby Ridge critical incident and whether the FBI fully and adequately participated in the investigation/prosecution of Weaver/Harris.''

It should be noted that my ten-page signed statement dated December 8, 1994, details liaison issues concerning the FBI, Salt Lake City and the United States Attorney's (USA's) Office, Boise, Idaho, for a period of time prior to the Ruby Ridge incident and extending through the Harris/Weaver trial. No questions were asked regarding ''rules of engagement.'' Specifically, I was not asked why I had allegedly approved the rules of engagement or more basically who had approved the rules of engagement. I was never informed that I faced possible disciplinary action for my alleged approval of the rules of engagement. And although contrary to the printed purpose of the inquiry as set forth on the FD–645, supra, A–SAC Mathews stated during the beginning of this interview, ''The rules of engagement are considered unconstitutional; therefore, there is no need to further discuss them.'' This is clearly in conflict with the MAOP citation 13–4(2)&(4) above.

DEPARTMENT OF JUSTICE REPORT

I direct your attention to an excerpt from an article that appeared in ''Legal Times,'' on March 6, 1995, captioned, ''DOJ Report May halt FBI Official's Rise.'' This article is based on a review of the DOJ Ruby Ridge report prepared by Barbara Berman. Apparently this report was leaked to the media during late February, 1995. The ''Legal Times'' article states:

''In the Reno inquiry, Potts had told investigators that he never approved the final rules of engagement, the guidelines governing a particular operation. Reno has refused to release the 542-page report, saying that she would wait until the local district attorney in Boundary County, Idaho, completes an investigation into whether agents should be charged with murder.

''But according to testimony contained in the report, which was obtained by Legal Times, Potts did approve the shoot-on-sight rule.

''The task force found that FBI operatives on the ground in Idaho faxed an operational plan, including the proposed rules of engagement, to headquarters for approval by Potts and his then deputy, Danny Coulson. But according to Freeh, Coulson had questions about other facets of the operation discussed and did not notice, let alone read, the rules of engagement. Potts, who had been working on the matter for 36 straight hours, was not on duty at the time and, hence, did not see the written rules.

''But Eugene Glenn, the on-site commander of the FBI operation, says in a January 1994 declaration that he believes he had already obtained Potts' approval by telephone before the shooting.

''The Reno task force also seemed to give credence to Glenn's account. '(I)t is inconceivable to us that FBI Headquarters remained ignorant of the exact wording of the Rules of Engagement during the entire period,' the report says.

''But FBI officials dispute Glenn's account and criticize the Justice Department's report as flawed.

'' 'When you piece together the evidence as best as possible after the fact, we reached our best judgment, and that's reflected in the discipline that the director announced or proposed,' says FBI General Counsel Howard Shapiro, who was directly involved in the FBI's inquiry.

''Freeh and Potts both declined comment.

'' 'I can't speak for the director personally,' Shapiro says, 'but a lot turned on the fact that Potts had not approved the final form of the rules of engagement, which are admittedly problematic. Had we found otherwise, it surely would have been grounds for further sanction,' the general counsel adds.

''Shapiro declined to elaborate, saying that the FBI's conclusions about what happened are based on information that Reno has said the bureau must not release pending the outcome of the local investigation.''

I have never been interviewed/interrogated regarding the rules of engagement. I was not made aware of the charge that I had approved the rules of engagement. Additionally, HRT Commander Dick Rogers, SAC Bill Gore, and SAC Robin Montgomery were not interviewed/interrogated regarding the rules of engagement during A-SAC Mathews' preparation of the Administrative Summary Report.

FBIHQ APPROVAL OF RULES OF ENGAGEMENT

I had been interviewed previously on two occasions: during September, 1992 as part of the Shooting Incident Report, and again on January 12, 1994, as part of the Berman DOJ inquiry. It is specifically detailed in the Shooting Incident Report that the rules of engagement were approved at FBI Headquarters. I call your attention to the following pages: Administrative Section, Cover Page #, Paragraph 1; Report Synopsis, Page 2, Lines 3 through 7; the body of the report, Page 3, Paragraph 2; Dick Rogers signed statement, Page 2, Paragraph 2 through Page 3, Paragraph 2; and signed statement of Eugene F. Glenn, Page 5, Paragraph 2 through

Page 6, Paragraph 1; and also to then Assistant Director Potts' signed statement where he articulates as part of this report that he approved the rules of engagement. The DOJ inquiry covered a broad period of time and touched only briefly on rules of engagement. Questioning concerning who approved the rules of engagement was not addressed in detail by interviewing officials during the preparation of my signed statement. Questions concerning who approved the rules of engagement did not appear to be a critical issue to be developed at the time of the Berman report.

It should be noted that on September 30, 1992, the date of the Shooting Report, there was no discussion regarding who approved the rules of engagement. The report simply states that the rules of engagement were approved at FBI Headquarters. It is also noted that the Shooting Review Committee Report, dated November 9, 1992, once again concurred that FBI Headquarters approved the rules of engagement. According to the ''Legal Times'' article dated March 6, 1995, the DOJ findings were, ''(I)t is inconceivable to us that FBI Headquarters remained ignorant of the exact wording of the Rules of Engagement during the entire period.''

There was no indication that the rules of engagement presented to field command at Ruby Ridge on Saturday, August 22, 1992, differed in any way from the rules of engagement Larry Potts advised he approved during his signed, sworn statement taken during the creation of the Shooting Review Report. It was only after the interviewing began that pertained to the DOJ inquiry headed up by Barbara Berman (over one year after the incident) that statements began to waiver with regard to responsibility for approval of the rules of engagement.

In the absence of approved and recognized investigative methods and techniques, A–SAC Mathews managed to take a quantum leap from the factual basis documented in three previous reports to a position of placing the blame for approval of the rules of engagement on SAC Eugene F. Glenn. It should be noted that this remarkable conclusionary quantum leap by A–SAC Mathews was accomplished without the benefit of any additional pertinent interviews of the logical parties who were aware of the rules of engagement approval process.

With regard to then Assistant Director Potts, his signed statement taken on September 24, 1992, (a part of the Shooting Review Report), advised that he jointly prepared the rules of engagement with HRT Commander Dick Rogers while Rogers was flying from Washington, D.C. to Northern Idaho to carry out his assigned task as HRT Commander on-scene during Ruby Ridge. On Saturday morning, August 22, 1992, HRT Commander Rogers presented SACs Glenn and Gore with the OPS Plan that included the rules of engagement; he advised how these rules had been prepared during the flight from Washington, D.C. to Northern Idaho and that then Assistant Director Potts was involved in the preparation of these rules of engagement and that Potts had approved them. On August 22, 1992, then Assistant Director Potts advised during a telephonic conversation with SAC Glenn that he had approved the rules of engagement, and he articulated his reasons for these adjustments to the Bureau's standard shooting policy. During the ten days of the Ruby Ridge stand-off there were several occasions when SAC Glenn and AD Potts telephonically communicated with one another, and during these conversations they mutually agreed that the rules of engagement should continue to exist. On Wednesday, August 26, 1992, AD Potts approved the FBI returning to the standard shooting policy. This is reflected in the SIOC Log, page 31, item 7, as follows: ''7) AD Potts and SAC Glenn agreed effective 1:00 p.m. EDT, 8/26/92, that the rules of engagement have changed and that they are now that we should fire only in accordance with current FBI shooting policy. . . .''

FBIHQ OVERSIGHT OF CRISIS SITUATIONS

During the January 6, 1995, press conference given by Director Freeh concerning discipline of FBI Agents involved in Ruby Ridge, the Director stated that Deputy Assistant Director (DAD) Coulson had not read the rules of engagement. If this, in fact, were true, I do not understand how such a dereliction could be accepted from an individual whose sole purpose for being in SIOC during this crisis was to be in command of FBI operations at Ruby Ridge. It is a long-standing FBI procedure that any time SIOC is in operation, all investigative plans, operations plans, and tactical initiatives are approved by the individual in charge of SIOC. This point can be testified to by any SAC present or former who has ever served during a crisis with SIOC in operation. Additionally, it can be testified to by any local, state, or county law enforcement officer who has worked jointly with the FBI during a crisis incident with SIOC in operation. I have had several local and state officers come forward who will testify that they witnessed this above-described procedure during the Singer-Swapp crisis in Utah in 1988. Additionally, officials of the U.S. Marshal's Service (USMS) were present at Ruby Ridge in 1992 and witnessed the procedure when the operations plan, which on page two contained the rules of engagement, was sent via facsimile to FBI Headquarters on Saturday, August 22, 1992, at 12:15 PM PST, and to the USMS Headquarters simultaneously. At 12:30 PM, PST, the USMS Headquarters responded they had no objections to the operations plan. Bureau approval was not obtained for the operations plan until the negotiation annex was faxed back to FBI Headquarters. At that time DAD Coulson advised he approved the operations plan.

DAD Coulson relieved AD Potts on Saturday, August 22, 1992. It is reasonable to assume that AD Potts fully briefed DAD Coulson regarding the activities surrounding the Ruby Ridge matter, including rules of engagement, prior to turning over command responsibilities to him. I call your attention to the SIOC Log, page 8, time 18:04, which reads as follows: ''DAD Coulson sent a facsimile to SAC Glenn re questions regarding the Operations Plan submitted by SAC Salt Lake. 1. No mention is made of Sniper Observer deployment as of 5:30 p.m. EST—(2:30 PST) 2. What intelligence has been gathered from the crisis point? 3. There is no mention of a Negotiation Strategy to secure release of individuals at the crisis point. 4. There is no mention of any attempt to negotiate at all. 5. SAC Salt Lake is requested to consider negotiation strategy and advise FBIHQ. FBIHQ is not prepared to approve the plan as submitted at this time.''

FBIHQ ACTIONS ON OPERATIONS PLAN

When DAD Coulson received the operations plan on Saturday, August 22, 1992, he telephonically advised SAC Glenn he could not approve the operations plan because it contained nothing about negotiation strategy. DAD Coulson and SAC Glenn had a lengthy telephone conversation concerning the points 1 through 5 set forth in the previous paragraph. Item 1 which deals with sniper observer deployment was discussed at length. It should be noted there were over 200 members of HRT, FBI SWAT team members, and other tactical and investigative units who were all held in camp and were not deployed, including sniper observers, until after DAD Coulson had received the crisis negotiation annex to the operations plan and at that time the field command was free to move sniper observer teams into forward positions. The sniper log verifies that snipers were in position at 5:07 PM, Pacific Daylight Time (8:07 PM, Eastern Daylight Time), which is after DAD Coulson had approved the operations plan containing the rules of engagement. There is no logic to the assumption that FBI leadership responsible for field command at Ruby Ridge would fax the operations plan containing the rules of engagement to FBI Headquarters and USMS Headquarters (receiving approval from the latter) and then deploy FBI resources prior to receiving approval from SIOC, FBI Headquarters. Is it logical to conclude that the two FBI SACs and the FBI HRT Commander on the scene would have mutually concurred to deploy FBI resources absent prior SIOC approval?

The question must asked how did DAD Coulson avoid reviewing the rules of engagement which are located on page 2 of the Operation Plan inasmuch as he obviously had reviewed the Operations Plan to come up with the questions as set forth in the SIOC Log, supra.

Page 8 of the SIOC Log at 18;30 reads as follows: ''SAC Glenn advised DAD Coulson that Portland SWAT team had contact with who they believe was subject approximately ¼ mile 'up canyon' from home. He used profanity and told them to get off property. SAC was reminded of rules of engagement and to treat subject as threat if confronted outside home. SAC is working on negotiation plan.''

It is noted that DAD Coulson's reminder to SAC Glenn regarding how to handle Weaver if confronted outside his home is in keeping with the rules of engagement that appeared in the Operations Plan and is not in keeping with the standard Bureau shooting policy.

Additionally, there exist two witnesses—one an individual who had a high-level position in SIOC during the operation who advised it was common knowledge that FBI Headquarters approved the rules of engagement; and the second witness is a Bureau Supervisor who served in SIOC on Saturday with DAD Coulson and overheard him discussing the rules of engagement with Bureau Supervisor Tony Betz.

CONFLICTS ON RULES OF ENGAGEMENT APPROVAL

I am aware that there exist conflicting statements regarding approval of the rules of engagement. Had A–SAC Mathews conducted his administrative review with the ethical standards and integrity normally associated with any FBI Agent, each of the individuals involved (Potts, Coulson, Rogers, Glenn, Gore, and Montgomery) would have been interrogated to resolve any conflicts that appear in their statements regarding rules of engagement. Had interrogation not resolved these conflicts, polygraph examinations should have been mandated as the next logical step. This type of in-depth investigation should have been mandated by A–SAC Mathews prior to any conclusions being drawn concerning who approved the rules of engagement.

DEFICIENCIES ON U.S. ATTORNEY LIAISON CONCLUSIONS

Instead of being interrogated concerning charges placed against me, I was afforded a telephonic ''soft'' fact-finding chronology-type review interview concerning liaison with the USA's Office in Boise, Idaho. I was never confronted with the allegations made by former U.S. Attorney Maurice Ellsworth and/or others. Individuals I suggested to A–SAC Mathews that should be contacted to provide additional insight regarding liaison problems that existed with the USA's Office in Boise under Ellsworth's leadership were

not contacted, and the current U.S. Attorney in Boise and former Acting U.S. Attorney for the District of Idaho were never contacted to verify the current excellent liaison that exists between the FBI and USA's Office in Boise. It should be noted that U.S. Attorney for the District of Idaho Betty Richardson and former Acting U.S. Attorney Pat Malloy of that office wrote unsolicited letters to both Attorney General Janet Reno and FBI Director Louis J. Freeh describing the current high quality of liaison that exists between the FBI and the USA's Office in Idaho. It is important to note that according to the DOJ report leaked to the media concerning the Ruby Ridge matter. the criticism leveled in the DOJ investigation focused on liaison discrepancies by Headquarters Units of the FBI and their interaction with the USA's Office in Boise, Idaho. Yet, the Mathews report turned the responsibility for deficiencies in liaison with the USA's Office in Boise, Idaho, to the Salt Lake City Field Division without conducting logical investigative steps and without advising those to be charged with these derelictions of the specific allegations they would be facing.

DEFICIENCIES IN MATHEWS REPORT

I have not yet been given access to the Mathews Administrative Summary Report; however, I am aware of other areas that were covered within the scope of this inquiry where A–SAC Mathews: (1) failed to develop/gather all evidence regarding liaison between the FBI, Salt Lake City and the USA's Office in Boise; (2) demonstrated unethical conduct by selectively choosing FBI Field Agents for discipline and omitting others involved jointly with those selected for discipline; (3) selectively choosing ASAC Thomas Miller and SAC Michael Kahoe for discipline regarding the Shooting Review Report for ''inaccurately and incompletely analyzing the report'' while omitting discipline of others who had to have reviewed the report (then Chief Inspector of the Inspection Division, then Assistant Director of the Inspection Division, then Deputy Assistant Director Danny Coulson, CID; then Assistant Director Larry Potts, CID), all of whom had to have read, analyzed, and approved this Shooting Report prior to it being sent to then Deputy Director Doug Gow; (4) and finally, other FBI Agents were interviewed by A–SAC Mathews and were subsequently censured, yet were not advised they were the subjects of an administrative inquiry nor were they given the standard waiver form to sign (FD–645).

A–SAC Mathews, a close associate of then DAD Danny Coulson, served as Coulson's ASAC in the Portland Office of the FBI when Coulson was SAC from August 24, 1988, to December 29, 1991. The only logical conclusion that can be drawn to explain the deception and lack of completeness in this investigation is that A–SAC Mathews' relationship with Coulson caused him to avoid the development of the necessary facts, and caused him to cover up facts germane to the central issues. It is beyond conceivability that any FBI Agent with 25 years of experience could have inadvertently presented such an incomplete, inaccurate document as the Administrative Summary Report prepared by A–SAC Mathews. Had A–SAC Mathews demonstrated the ethical standards normally associated with someone in the FBI of his position, he would have recused himself from this assignment because of an obvious conflict of interest.

STATUS OF PROPOSED DISCIPLINARY ACTION

More than 115 days have passed since I was publicly castigated by Director Freeh during his infamous January 6, 1995, national press conference. To date I have not been given copies of the Administrative Summary Report prepared by A-SAC Mathews, the Department of Justice Report concerning Ruby Ridge prepared in 1994 by Barbara Berman (leaked to the media in February, 1995), the FBI report concerning the Ruby Ridge matter prepared by then Inspector Robert E. Walsh in 1994 (which report parallels the Berman report but presents findings that differ), and other internal documents I have gone on record requesting under the provisions of FOIPA.

Since January 6, 1995, the FBI in concert with the DOJ has moved forward to have affirmed the correctness of the discipline handed out to then Assistant Director Potts, and on May 2, 1995, finalized his promotion to Deputy Director of the FBI.

This action was taken while my appeal sits unaddressed in the office of Deputy Attorney General Jamie Gorelick. The DOJ, aware that there are unresolved issues concerning responsibility for authorization of the rules of engagement at Ruby Ridge, chose to ignore the opportunity to hear from SAC Glenn and instead took a course of action which further exasperates an already flawed Administrative Review Process.

CONCLUSION

I request that a thorough OPR inquiry be initiated. There are numerous administrative guidelines and procedures that have been violated, and it is conceivable that federal statutes have been violated. The lack of professionalism demonstrated in the handling of the Administrative Summary Report in connection with the Ruby Ridge matter casts a dark cloud over the integrity of the FBI and the DOJ.

I would welcome the opportunity to be interrogated regarding this matter, and would likewise welcome the opportunity to submit to a polygraph examination afforded to me by a professional, nationally-recognized operator with a total independent bearing in this matter.

This letter has not been referred directly to OPR, Inspection Division, FBI Headquarters, since it would create a conflict of interest for Assistant Director Gore, who was present and intricately involved in discussions involving the Operations Plan (including rules of engagement) utilized during the Ruby Ridge crisis in Idaho.

Respectfully yours,

EUGENE F. GLENN,
Special Agent in Charge,
Salt Lake City Division.

EXHIBIT 2

REPORT AND RECOMMENDATIONS CONCERNING THE HANDLING OF INCIDENTS SUCH AS THE BRANCH DAVIDIAN STANDOFF IN WACO, TX

(Submitted to Deputy Attorney General Philip Heymann, by Panelist Alan A. Stone, M.D., Touroff-Glueck Professor of Psychiatry and Law, Faculty of Law and Faculty of Medicine, Harvard University, November 10, 1993)

I. PREAMBLE

The Justice Department's official investigation published on October 8th together with other information made available to the panelists present convincing evidence that David Koresh ordered his followers to set the fire in which they perished. However, neither the official investigation nor the Dennis evaluation has provided a clear and probing account of the FBI tactics during the stand-off and their possible relationship to the tragic outcome at Waco. This report therefore contains an account based on my own further review and interpretation of the facts.

I have concluded that the FBI command failed to give adequate consideration to their own behavioral science and negotiation experts. They also failed to make use of the Agency's own prior successful experience in similar circumstances. They embarked on a misguided and punishing law enforcement strategy that contributed to the tragic ending at Waco.

As a physician, I have concluded that there are serious unanswered questions about the basis for the decision to deploy toxic C.S. gas in a closed space where there were 25 children, many of them toddlers and infants.

This report makes several recommendations, first among them is that further inquiry will be necessary to resolve the many unanswered questions. Even with that major caveat, I believe the Deputy Attorney General's suggestions for forward looking changes are excellent and endorse them. This report makes further specific recommendations for change building on his proposal.

II. INTRODUCTION

A: Explanation for the delay in the submission of this report

This past summer, the Justice and Treasury Departments appointed a group of panelists, each of whom was to prepare a forward-looking report suggesting possible changes in federal law enforcement in light of Waco. For reasons set forth below, I decided that before submitting a report based on my particular professional expertise, it was necessary to have a complete understanding of the factual investigation by the Justice Department. Having now had the opportunity to read and study that report and the Dennis Evaluation, I concluded that I did not yet have the kind of clear and probing view of events that is a necessary prerequisite for making suggestions for constructive change. Deputy Attorney General (DAG) Philip Heymann therefore made it possible for me to pursue every further question I had with those directly responsible for the Justice Department's factual investigation and with the FBI agents whose participation at Waco was relevant to my inquiry. Their cooperation allowed me to obtain the information necessary for this report.

The Justice Department has sifted through a mountain of information, some of which, in accordance with Federal Statute, can not be publicly revealed. This evidence overwhelmingly proves that David Koresh and the Branch Davidians set the fire and killed themselves in the conflagration at Waco, which fulfilled their apocalyptic prophecy. This report does not question that conclusion; instead, my concern as a member of the Behavioral Science Panel is whether the FBI strategy pursued at Waco in some way contributed to the tragedy which resulted in the death of twenty-five innocent children along with the adults. The Justice Department Investigation and the Dennis Evaluation seem to agree with the FBI commander on the ground, who is convinced that nothing the FBI did or could have done would have changed the outcome. That is not my impression.

I therefore decided it was necessary to include in this report my own account of the events I considered critical. I have attempted to confirm every factual assertion of this account with the FBI or the Justice Department. Although, in my discussions with the Justice Department, I encountered a certain skepticism about what I shall report here, I was quite reassured by interviews with the FBI's behavioral scientists and negotiators, who confirmed some of my impressions and encouraged my efforts. Because they share my belief that mistakes were made, they expressed their determination to have the truth come out, regardless of the consequences. I hope that this report will bolster the FBI and its new Director's efforts to conduct their forthcoming review of Waco, which has not yet begun. I also

hope that my report and suggestions for change will in some measure enable the FBI to work more effectively with the Justice Department, the Attorney General, and other law enforcement agencies.

B. Mandate to the panel as I understood it

The mandate to the panelists was ''to assist in addressing issues that Federal Law Enforcement confronts in barricade/hostage situations such as the stand-off that occurred near Waco, Texas. . . .'' Specifically, my sub-group (Ammerman, Cancro, Stone, Sullivan) was directed to explore: ''Dealing with persons whose motivations and thought processes are unconventional. How should law enforcement agencies deal with persons or groups which thought processes or motivations depart substantially from ordinary familiar behavior in barricade situations such as Waco? How should the motivations of the persons affect the law enforcement response? What assistance can be provided by experts in such fields as psychology, psychiatry, sociology, and theology?''[1]

These seemed to be two premises in this request by the Deputy Attorney General (DAG). The first premise was that Waco had been a tragic event, so it was important for the agencies and the people involved to examine the evidence, evaluate their actions, and initiate change based on those conclusions. Second, although there were questions about the psychiatric status of David Koresh, the DAG's use of the term, ''unconventional,'' indicated that we were also broadly to consider groups with ''belief systems'' that might cause them to think and behave differently than ordinary criminals and therefore to be more difficult for law enforcement to deal with and understand. As I understood it, the Branch Davidians' religious beliefs were considered unconventional,'' which was not intended to be a pejorative term, but rather a descriptive one. The panelists were also told that there was concern among federal law enforcement officials that more such ''unconventional'' groups might, in the near future, pose problems for which law enforcement's standard operating procedures might not be suitable.

Given this important responsibility and the fact that we were asked to make recommendations ''[c]oncerning the handling of incidents *such as the Branch Davidian Standoff in Waco, Texas*'' (emphasis added), I felt unprepared to go forward without a thorough grasp of the events and decisions that led to the tragedy. However, the Justice Department was still in the preliminary stage of their own fact-gathering investigation at our panel briefings in early July. Hoping to convey the particular issues of concern to me, I prepared a preliminary report based on the initial briefings. Since the factual information I wanted and needed was still being gathered by the Justice Department, I did not attend the subsequent special briefings arranged for the panel at Quantico, Virginia. Because of my reticence to furnish a report based on incomplete information, the DAG and I resolved that I would submit my report subsequent to the completion of the Justice Department's factual inquiry. I have now had the opportunity to review the following documents:

1. Report of the Department of the Treasury on the Bureau of Alcohol, Tobacco, and Firearms. Investigation of Vernon Wayne Howell Also Known As David Koresh, September, 1993;

2. Report to the Deputy Attorney General on the Events at Waco, Texas, February 28 to April 19, 1993 (Redacted Version), October 8, 1993;

3. Edward S.G. Dennis, Jr., Evaluation of the Handling of the Branch Davidian Standoff in Waco, Texas, February 28 to April 19, 1993 (Redacted version), October 8, 1993;

4. Deputy Attorney General Philip B. Heymann, Lessons of Waco: Proposed Changes in Federal Law Enforcement October 8, 1993;

5. Recommendations of Experts for Improvements in Federal Law Enforcement After Waco.

As previously mentioned, the Justice Department and the FBI have answered my further questions, supplied me with documents, and helped me explore issues of greatest relevance to my inquiry.

III. ACCOUNT OF THE EVENTS AT WACO

The FBI replaced the BATF at the Branch Davidian compound on the evening of February 28 and the morning of March 1. There had been casualties on both sides during the BATF's attempted dynamic entry. David Koresh, the leader of the Branch Davidians, had been shot through the hip, and the situation was in flux. It would become, as we have been told, the longest stand-off in law enforcement history. The FBI, with agents in place who were trained for rapid intervention, was locked into a prolonged siege. The perimeter was difficult to control, the conditions were extreme, and the stress was intense. Furthermore, the FBI's people had inherited a disaster that was not of their own making. ''Under the circumstances, the FBI exhibited extraordinary restraint and handled this crisis with great professionalism'' the Dennis Evaluation concludes. While this may be true from the perspective of experts in law enforcement, it does not contribute to establishing a clear explanation of what happened at Waco from a psychiatric and behavioral science perspective. The commander on the ground believes that the FBI's actions had no impact on David Koresh. He and others who share his opinion will likely disagree with the account that follows, which is the product of my own current understanding of the events.

Phase I

During the first phase of the FBI's engagement at Waco, a period of a few days, the agents on the ground proceeded with a strategy of conciliatory negotiation, which had the approval and understanding of the entire chain of command. They also took measures to ensure their own safety and to secure the perimeter. In the view of the negotiating team, considerable progress was made—for example, some adults and children came out of the compound; but David Koresh and the Branch Davidians made many promises to the negotiators they did not keep. Pushed by the tactical leader, the commander on the ground began to allow tactical pressures to be placed on the compound in addition to negotiation; e.g., turning off the electricity, so that those in the compound would be as cold as the agents outside during the twenty-degree night.

Phase II

As documented in the published reports and memoranda, this tactical pressure began at the operational level over the objections of the FBI's own experts in negotiation and behavioral science, who specifically advised against it. These experts warned the FBI command about the potentially fatal consequences of such measures in dealing with an ''unconventional'' group. Their advice is documented in memoranda. Nonetheless tactical pressure was added. Without a clear command decision, what evolved was a carrot-and-stick, ''mixed-message'' strategy. This happened without outside consultation and without taking into account that the FBI was dealing with an ''unconventional'' group.

Although this carrot-and-stick approach is presented in the factual investigation as though it were standard operating procedure for law enforcement and accepted by the entire chain of command, it was instead, apparently, the result of poor coordination and management in the field. Negotiators and tactical units were at times operating independently in an uncoordinated and counterproductive fashion.

Phase III

During the third phase of the stand-off, the FBI took a more aggressive approach to negotiation and, when that failed, gave up on the process of negotiation, except as a means of maintaining communication with the compound. By March 21, the FBI was concentrating on tactical pressure alone: first, by using all-out psycho-physiological warfare intended to stress and intimidate the Branch Davidians; and second, by ''tightening the noose'' with a circle of armored vehicles. The FBI considered these efforts a success because no shots were fired at them by the Branch Davidians.

This changing strategy at the compound from (1) conciliatory negotiating to (2) negotiation and tactical pressure and then to (3) tactical pressure alone, evolved over the objections of the FBI's own experts and without clear understanding up the chain of command. When the fourth and ultimate strategy, the insertion of C.S. gas, was presented to Attorney General Reno, the FBI had abandoned any serious effort to reach a negotiated solution and was well along in its strategy of all-out tactical pressure, thereby leaving little choice as to how to end the Waco stand-off. It is unclear from the reports whether the FBI ever explained to the AG that the agency had rejected the advice of their own experts in behavioral science and negotiation, or whether the AG was told that FBI negotiators believed they could get more people out of the compound by negotiation. By the time the AG made her decision, the noose was closed and, as one agent told me, the FBI believed they had ''three options—gas, gas, and gas.''

This account of the FBI's approach at Waco may not be correct in every detail. It is certainly oversimplified, but it has been confirmed in its general outline by FBI behavioral scientists and negotiators who were participants at Waco. This account with their assistance brings into focus for me the critical issues about law enforcement response to persons and a group whose beliefs, motivations, and behavior are unconventional.

IV. ANALYSIS

A. The FBI's behavioral science capacity

1. FBI Expertise in Dealing With Persons Whose Motivations and Thought Processes Are Unconventional

The evidence now available to me indicates that, contrary to my previous understanding and that of the other panelists, the FBI's Investigative Support Unit and trained negotiators possessed the psychological/behavioral science expertise they needed to deal with David Koresh and an unconventional group like the Branch Davidians. The FBI has excellent in-house behavioral science capacity and also consulted with reputable experts outside the agency. Panelists may have been misled, as I was, by FBI officials at the original briefings who conveyed the impression that they considered David Koresh a typical criminal mentality and dealt with him as such. They also conveyed the impression that they believed his followers were dupes and he had ''conned'' them. Based on reports and interviews, the FBI's behavioral science experts who were actually on the scene at Waco had an excellent understanding of Koresh's psychology and appreciated the group's intense religious convictions.

[1] Memorandum of June 25, 1993.

My preliminary report of August 3 emphasized at some length those aspects of David Koresh's clinical history and psychopathology that contradicted the simplistic and misleading impression given at the first briefings. Much more information has been made available about his mental condition, his behavioral abnormalities, his sexual activities, and his responses under stress. All of this evidence is incompatible with the notion that Koresh can be understood and should have been dealt with as a conventional criminal type with an antisocial personality disorder. However, the evidence available does not lead directly to some other clear and obvious psychiatric diagnosis used by contemporary psychiatry. Nonetheless, based on the FBI's in-house behavioral science memoranda and other information from outside consultants, I believe the FBI behavioral science experts had worked out a good psychological understanding of Koresh's psychopathology. They knew it would be a mistake to deal with him as though he were a con-man pretending to religious beliefs so that he could exploit his followers.

This is not to suggest that David Koresh did not dominate and exploit other people. He was able to convince husbands and wives among his followers that only he should have sex with the women and propagate children. He convinced parents on the same religious grounds to permit him to have sex with their young teen-age daughters. He studied, memorized, and was preoccupied with Biblical texts and made much better educated people believe that he had an enlightened understanding of scripture and that he was the Lamb of God. His followers took David Koresch's teachings as their faith. He exacted strict discipline from adults and children alike while indulging himself.

Whatever else all this adds up to, it and other information clearly demonstrate as a psychological matter that Koresh had an absolute need for control and domination of his followers that amounted to a mania. He also had the ability to control them. The intensity and depth of his ability and need to control is attested to by everyone in the FBI who dealt with him, from negotiators and behavioral scientists to tactical agents and the commander on the ground.

Unfortunately, those responsible for ultimate decision-making at Waco did not listen to those who understood the meaning and psychological significance of David Koresh's ''mania.'' Instead they tried to show him who was the ''boss.''

What went wrong at Waco was not that the FBI lacked expertise in behavioral science or in the understanding of unconventional religious groups. Rather the commander on the ground and others committed to tactical-aggressive, traditional law enforcement practices disregarded those experts and tried to asset control and demonstrate to Koresh that they were in charge. There is nothing surprising or esoteric in this explanation, nor does it arise only from the clear wisdom of hindsight. As detailed below, the FBI's own experts recognized and predicted in memoranda that there was the risk that the active aggressive law enforcement mentality of the FBI—the so-called ''action imperative'' would prevail in the face of frustration and delay. They warned that, in these circumstances, there might be tragic consequences from the FBI's ''action imperative,'' and they were correct.

2. Evaluating the Risks of Mass Suicide

As I have previously stated, there is, to my mind, unequivocal evidence in the report and briefings that the Branch Davidians set the compound on fire themselves and ended their lives on David Koresh's order. However, I am also now convinced that the FBI's noose-tightening tactics may well have precipitated Koresh's decision to commit himself and his followers to this course of mass suicide.

The official reports have shied away from directly confronting and examining the possible causal relationship between the FBI's pressure tactics and David Koresh's order to the Branch Davidians. I believe that this omission is critical because, if that tactical strategy increased the likelihood of the conflagration in which twenty-five innocent children died, then that must be a matter of utmost concern for the future management of such stand-offs.

Based on the available evidence and my own professional expertise, I believe that the responsible FBI decision makers did not adequately or correctly evaluate the risk of mass suicide. The Dennis Evaluation's executive summary concludes that ''the risk of suicide was taken into account during the negotiations and in the development of the gas plan.'' It is unclear what ''taken into account'' means. The questions that now need to be explored are: how was the risk of suicide taken into account, and how did the FBI assess the impact of their show of-force pressure tactics on that risk?

Gambling with death

There is a criminology, behavioral science, and psychiatric literature on the subject of murder followed by suicide, which indicates that these behaviors and the mental states that motivate them have very important and complicated links. Family violence often takes the form of murder followed by suicide. Multiple killers motivated by paranoid ideas often provoke law enforcement at the scene to kill them and often commit suicide. Even more important is what has been called ''the gamble with death.'' Inner-city youths often provoke a shoot-out, ''gambling'' with death (suicide) by provoking police into killing them. The FBI's behavioral science unit, aware of this literature, realized that Koresh and his followers were in a desperate kill-or-be-killed mode. They were also well aware of the significance and meaning of the Branch Davidians' apocalyptic faith. They understood that David Koresh interpreted law enforcement attacks as related to the prophesied apocalyptic ending.

In moving to the show of force tactical strategy, the FBI's critical assumption, was that David Koresh and the Branch Davidians, like ordinary persons, would respond to pressure in the form of a closing circle of armed vehicles and conclude that survival was in their self-interest, and surrender. This ill-fated assumption runs contrary to all of the relevant behavioral science and psychiatric literature and the understanding it offered of Koresh and the Branch Davidians.

Furthermore, there was direct empirical evidence supporting the assumption that the Branch Davidians, because of their own unconventional beliefs, were in the ''gamble with death'' mode. The direct evidence for this was their response to the ATF's misguided assault. They engaged in a desperate shootout with federal law enforcement, which resulted in deaths and casualties on both sides. The AFT claims gunfire came from forty different locations. If true, this means that at least forty Branch Davidians were willing to shoot at federal agents and kill or be killed as martyr-suicide victims defending their ''faith.'' The idea that people with those beliefs expecting the apocalypse would submit to tactical pressure is a conclusion that flies in the face of their past behavior in the ATF crisis. Past behavior is generally considered the best predictor of future behavior.

Willing to kill but not cold-blooded killers

The BATF investigation reports that the so-called ''dynamic entry'' turned into what is described as being ''ambushed''. As I tried to get a sense of the state of mind and behavior of the people in the compound the idea that the Branch Davidians' actions were considered an ''ambush'' troubled me. If they were militants determined to ambush and kill as many AFT agents as possible, it seemed to me that given their firepower, the devastation would have been even worse. The agents were in a very vulnerable position from the moment they arrived. Yet, as ordered, they tried to gain entry into the compound in the face of the hail of fire. Although there is disagreement, a senior FBI tactical person and other experts confirmed my impression of this matter. The ATF agents brought to the compound in cattle cars could have been cattle going to slaughter if the Branch Davidians had taken full advantage of their tactical superiority. They apparently did not maximize the kill of ATF agents. This comports with all of the state-of-mind evidence and suggests that the Branch Davidians were not determined, cold-blooded killers; rather, they were desperate religious fanatics expecting an apocalyptic ending, in which they were destined to die defending their sacred ground and destined to achieve salvation.

The tactical arm of federal law enforcement may conventionally think of the other side as a band of criminals or as a military force or, generically, as the aggressor. But the Branch Davidians were an unconventional group in an exalted, disturbed, and desperate state of mind. They were devoted to David Koresh as the Lamb of God. They were willing to die defending themselves in an apocalyptic ending and, in the alternative, to kill themselves and their children. However, these were neither psychiatrically depressed, suicidal people nor cold-blooded killers. They were ready to risk death as a test of their faith. The psychology of such behavior-together with its religious significance for the Branch Davidians was mistakenly evaluated if, not simply ignored, by those responsible for the FBI strategy of ''tightening the noose.'' The overwhelming show of force was not working in the way the tacticians supposed. It did not provoke the Branch Davidians to surrender, but it may have provoked David Koresh to order the mass-suicide. That, at least, is my considered opinion.

The factual investigation reports in detail the many time negotiators asked Koresh and others in the compound whether they planned suicide. Also documented are Koresh's assurances that they would not kill themselves. Such questions and answers are certainly important from a psychiatric perspective in evaluating a patient's suicidal tendency. But the significance of such communication depends on the context, the relationship established, and the state of mind of the person being interviewed. The FBI had no basis for relying on David Koresh's answers to these questions. Furthermore, his responses provided no guidance to the more pertinent question?—'What will you do if we tighten the noose around the compound in a show of overwhelming power, and using CS gas, force you to come out?'

The psychology of control

The most salient feature of David Koresh's psychology was his need for control. Every meaningful glimpse of his personality and of day-to-day life in the compound demonstrates his control and domination. The tactic of tightening-the-noose around the compound was intended to convey to David Koresh the realization that he was losing control of his ''territory,'' and that the FBI

was taking control. The FBI apparently assumed that this tactic and the war of stress would establish that they were in control but would not convey hostile intent. They themselves truly believed these tactics were ''not an assault,'' and because the Davidians failed to respond with gunfire, the FBI considered their tactics effective and appropriate. The commander on the ground now acknowledges that they never really gained control of David Koresh. But, in fact, my analysis is that they pushed him to the ultimate act of control—destruction of himself and his group.

The FBI's tactics were ill considered in light of David Koresh's psychology and the group psychology of the people in the compound. The FBI was dealing with a religious group, with shared and reinforced beliefs and a charismatic leader. If one takes seriously the psychological syndrome of murder/suicide gamble with death and the group's unconventional belief system in the Seven Seals and the apocalypse, then you may conclude, as I have, that the FBI's control tactics convinced David Koresh that, in this situation, he was becoming hopeless and helpless—that he was losing control. In his desperate state of mind, he chose death rather than submission. When the FBI thought they were at last taking control, they had in fact totally lost control of the stand-off.

3. The Waco Tactics in Light of the Group Psychology of the FBI

If this had been a military operation, the Waco conclusion would have been a victory. The enemy was destroyed without a single loss of life for the FBI. This situation, however, was not a military operation. The question is; did a ''military'' mentality overtake the FBI? We were told that the FBI considers a conflict which results in any casualties on either side a failure. The law enforcement experts on the panel agreed.

There is little doubt that the FBI inherited a terrible situation. Federal agents had been killed and wounded, and there were killed and wounded Branch Davidians in and around the compound. The FBI knew that they were in a dangerous situation, and that they confronted a group of religious fanatics who were willing to kill or be killed. The FBI's initial decision to mount a stand-off and negotiate was a remarkable exhibition of restraint under the circumstances. In retrospect, tactical units will wonder whether an immediate full-scale dynamic entry by an overwhelming force would have produced less loss of life.

The FBI stand-off, we were repeatedly told, was the longest in law enforcement history. The costs in money and manpower were mounting and, Waco had the media impact of the Iran Hostage taking as the days mounted. The FBI was under enormous pressure to do something. Given what I believe the FBI's group psychology to have been, the desultory strategy of simultaneous negotiation and tactical pressure was enacted as a compromise between doing nothing (passivity) and military assault (the action imperative). The appeal of any tactical initiative to an entrenched, stressed FBI must have been overwhelming. It may have better suited their group psychology than the group psychology of the unconventional people in the compound they wanted to affect. Given the escalating pressure to act, the final tightening-the-noose'' and C.S. gas strategy must have seemed to the tacticians a reasonable compromise between doing nothing and overreacting.

This analysis of the FBI's group psychology is not intended as a matter of placing blame. If it is accurate, it at least points to what might be done differently in the future. The FBI should not be pushed by their group psychology into misguided *ad hoc* decision making the next time around.

B. Failure To Use Behavioral Science Capacity

1. Failure of coordination between tactical and negotiating arms of the FBI

Throughout the official factual investigation, there are references to the failure of communication between the tactical and negotiation arms of the FBI. The commander on the ground thinks that the official investigation and evaluation exaggerate the extent and significance of that failure. I disagree. The situation can only be fully appreciated by a thoroughgoing review of the documents. Consider the Memo of 3/5/93 from Special Agents Peter Smerick and Mark Young on the subject, ''Negotiation Strategy and Considerations.'' The memorandum not only defines the basic law enforcement priorities at Waco in the identical fashion as the after-the-fact panel of law enforcement experts, also anticipates most of the panel's own behavioral science expertise and retrospective wisdom. Agents Smerick and Young were not Monday morning quarterbacks as we panelists are; they were members of the F.B.I. team on the field of play. The basic premise of their overall strategy was:

1. Insure safety of *children* [emphasis in original], who are truly victims in this situation.

2. Facilitate the peaceful surrender of David Koresh and his followers.

The agents went on to emphasize that the strategy of negotiations, coupled with ever-increasing tactical presence was inapplicable. They wrote, ''In this situation, however, it is believed this strategy, if carried to excess, could eventually be counter-productive and could result in loss of life.'' p. 2, Memo of 3/5/93. The agents also were fully aware that Koresh's followers believed in his teachings and would ''die for his cause.'' They were fully aware, therefore, of the religious significance of the Branch Davidians' conduct and attitudes and were sensitive to all of the concerns emphasized by the religious experts on the panel in their reports. They suggested that the F.B.I. should consider ''offering to pull back, *only* if they release more children'' (emphasis in original). The agents further recommended that, ''since these people fear law enforcement, offer them the opportunity of surrendering to a neutral party of their choosing accompanied by appropriate law enforcement personnel.''

These agents recognized that although some in the F.B.I. might believe the Davidians were ''bizarre and cult-like,'' the followers of Koresh ''will fight back to the death, to defend their property [described elsewhere by the agents as sacred ground, the equivalent of a cathedral to Catholics, etc.] and their *faith*'' (emphasis added). Memo of Smerick and Young 3/7/93.

My reading of these memos indicates that these agents had placed the safety of the children first, exactly as did AG Reno. They recognized that it was not a traditional hostage situation, as the British law enforcement expert on the panel, C.E. Birt, repeatedly emphasized during our briefings of July 1 and 2, when he found it necessary to correct the misrepresentation of the briefer. They warned against the carrot-and-stick approach, which was employed and has been criticized by several of the panelists in their reports. Professor Cancro speaks of it as a ''double bind,'' a term used by behavioral scientists to describe a mixed message for which their is no correct response and which, as a result, creates anxiety and agitation in the recipient of the message.

The factual investigation does not explain how or why these expert opinions of behavioral scientists and negotiations within the FBI were overridden. The Justice Department emphasized that these same agents whose views I have described gave quite contradictory views the very next day. When I asked whether the Justice Department's fact-finders had questioned these agents as to why they had changed their views, no adequate answer was given. I therefore pursued that inquiry with the agent who authored the two reports. He made it quite clear that the contradictory suggestions were offered only in response to an expression of dissatisfaction with the previous recommendations. Although the commander on the ground and the official investigation disagree with my view, I have concluded that decision-making at Waco failed to give due regard to the FBI experts who had the proper understanding of how to deal with an unconventional group like the Branch Davidians.

2. Was tactical strategy appropriate with so many children in the compound?

The pressure strategy as we now know it consisted of shutting off the compound's electricity, putting search lights on the compound all night, playing constant loud noise (including Tibetan prayer chants, the screaming sounds of rabbits being slaughtered, etc.), tightening the perimeter into a smaller and smaller circle in an overwhelming show of advancing armored force, and using CS gas. The constant stress overload is intended to lead to sleep-deprivation and psychological disorientation. In predisposed individuals the combination of physiological disruption and psychological stress can also lead to mood disturbances, transient hallucinations and paranoid ideation. If the constant noise exceeds 105 decibels, it can produce nerve deafness in children as well as in adults. Presumably, the tactical intent was to cause disruption and emotional chaos within the compound. The FBI hoped to break Koresh's hold over his followers. However, it may have solidified this unconventional group's unity in their common misery, a phenomenon familiar to victimology and group psychology.

When asked, the Justice Department was unaware whether the FBI had even questioned whether these intentional stresses would be particularly harmful to the many infants and children in the compound. Apparently, no one asked whether such deleterious measures were appropriate, either as a matter of law enforcement ethics or as a matter of morality, when innocent children were involved. This is not to suggest that the FBI decisionmakers were cold-blooded tacticians who took no account of the children; in fact, there are repeated examples showing the concern of the agents, including the commander on the ground. Nevertheless, my opinion is that regardless of their apparent concern the FBI agents did not adequately consider the effects of these tactical actions on the children.

3. The plan to insert CS gas

During U.S. military training, trainees are required to wear a gas mask when entering a tent containing CS gas. They then remove the mask and, after a few seconds in that atmosphere, are allowed to leave. I can testify from personal experience to the power of C.S. gas to quickly inflame eyes, nose, and throat; to produce choking, chest pain, gagging, and nausea in healthy adult males. It is difficult to believe that the U.S. Government would deliberately plan to expose twenty-five children, most of them infants and toddlers, to C.S. gas for forty-eight hours. Although it is not discussed in the published reports, I have been told that the FBI believed that the Branch Davidians had gas masks and that this was one of the reasons for the plan of prolonged exposure. I

have also been told that there was some protection available to the children, i.e., covering places where the seal is incomplete with cold wet towels can adapt gas masks for children and perhaps for toddlers though not for infants. The official reports are silent about these issues and do not reveal what the FBI told the AG about this matter, and whether she knew there might be unprotected children and infants in the compound.

The written information about the effects of C.S. gas which was presented to the AG has been shared with the panelists. We do not know whether she had time to read it. Based on my own medical knowledge and review of the scientific literature, the information supplied to the AG seems to minimize the potential harmful consequences for infants and children.

Scientific literature on C.S. gas is, however, surprisingly limited. In the sixties, the British Home Office, commissioned the Himsworth Report, after complaints about the use of C.S. gas by British troops in Londonderry, Ireland. The report is said by its critics to understate the medical consequences. The published animal research on which the report is based acknowledged that at very high exposure, which the authors deemed unlikely, lethal effects were produced. The researchers assumed (as did the Himsworth report) that C.S. gas would be used primarily in open spaces, to disperse crowds, and not in closed areas.

The AG's information emphasized the British experience and understated the potential health consequences in closed spaces. The AG also had a consultation with a physician; but the exact content of that discussion has not been reported, and the available summary is uninformative. The FBI commander on the ground assures me that the agency has detailed, ongoing expertise on C.S. gas and its medical consequences. If so, no such FBI information was supplied in the written material to the AG or subsequently to this panelist.

Based on my review, the American scientific literature on the toxic effects of C.S. gas on adults and children is also limited. Of course, there has, been no deliberate experimentation on infants. The Journal of the American Medical Association published two articles in recent years in which physicians expressed concern about the use of C.S. gas on civilians, including children in South Korea and Israel. Anecdotal reports of the serious consequences of tear gas, however, approved as early as 1956. Case reports indicate that prolonged exposure to tear gas in closed quarters causes chemical pneumonia and lethal pulmonary edema. (Gonzalez, T.A., et al, Legal Medicine Pathology and Toxicology East Norwalk, Conn: Appleton Century Crofts, 1957). According to a 1978 report, a disturbed adult died after only a half-hour exposure to C.S. gas in closed quarters. Chapman, A.J. and White C. ''Case Report: Death Resulting from Lacrimatory Agents,'' J. Forensic Sci., 23 (1978): 527–30) The clinical pathology found at autopsy in these cases is exactly what common medical understanding and ordinary pulmonary physiology predicts would follow prolonged exposure in closed quarters.

The potential effects of C.S. gas are easily explained. C.S. gas causes among other things, irritation and inflammation of mucus membrane. The lung is a sack full of membranes. The inhalation of C.S. gas would eventually cause inflammation, and fluid would move across the membranes and collect in the alveoli, the tiny air sacks in the lungs that are necessary for breathing. The result is like pneumonia and can be lethal. Animal studies are available to confirm that C.S. gas has this effect on lung tissue. Ballantyne, B. and Callaway, S., ''Inhalation toxicology and pathology of animals exposed to omicron-chlorobenzylidene malonitrile (CS),'' Med. Sci. Law, 12 (1972): 43–65. The Special Communication published in J.A.M.A. 220 (1993): 616–20 by Physicians for Human Rights reported that its teams, investigating the use of C.S. gas in South Korea and Panama, found ''skin burns, eye injuries and exacerbations of underlying heart and lung disease . . . on civilians at sites far removed from crowd gatherings.'' Dermatologists have reported blistering rashes on skin exposed to self-defense sprays, which use the same C.S. gas. Parneix-Spake, A. *et al*, ''Severe Cutaneous Reactions to Self-Defense Sprays, Arch. Dermatol 129 (1993): 913.

The medical literature does contain a clinical case history of a situation that closely approximates the expected Waco conditions. Park, S. and Giammona, S.T.m, ''Toxic Effects of Tear Gas on an Infant Following Prolonged Exposure,'' Amer. J. Dis. Child 123,3 (1972). A normal four month-old infant male was in a house into which police officers, in order to subdue a disturbed adult, fired canisters of C.S. gas. The unprotected child's exposure lasted two to three hours. Thereafter, he was immediately taken to an emergency room. His symptoms during the first twenty-four hours were upper respiratory; but, within forty-eight hours his face showed evidence of first degree burns, and he was in severe respiratory distress typical of chemical pneumonia. The infant had cyanosis, required urgent positive pressure pulmonary care, and was hospitalized for twenty-eight days. Other signs of toxicity appeared, including an enlarged liver. The infant's delayed onset of serious, life-threatening symptoms parallels the experience of animal studies done by Ballantyne and Calloway for the Hinsworth Report. The infant's reactions reported in this case history were of a vastly different dimension than the information given the AG suggested.

Of course, most people without gas masks would be driven by their instinct for survival from a C.S. gas-filled structure. But infants cannot run or even walk out of such an environment; and young children (many were toddlers) may be frightened or disoriented by this traumatic experience. The C.S. gas tactics, planned by the FBI, and approved by the AG, would seem to give parents no choice. If they wanted to spare their inadequately protected children the intense and immediate suffering expectably caused by the C.S. gas, they would have had to take them out of the compound. Ironically, while the most compelling factor used to justify the Waco plan was the safety of the children, the insertion of the C.S. gas, in my opinion, actually threatened the safety of the children.

The Justice Department has informed me that because of the high winds at Waco, the C.S. gas was dispersed; they believe it played no part in the death by suffocation, revealed at autopsy, of most of the infants, toddlers, and children. The commander on the ground, however, is of the opinion that the C.S. gas did have some effect, because the wind did not begin to blow strongly until two hours after he ordered the operations to begin. As yet, there has been no report as to whether the children whose bodies were found in the bunker were equipped with gas masks. Whatever the actual effects may have been, I find it hard to accept a deliberate plan to insert C.S. gas for forty-eight hours in a building with so many children. It certainly makes it more difficult to believe that the health and safety of the children was our primary concern.

The commander on the ground has informed me that careful consideration was given to the safety of the children, and that the initial plan was to direct the gas at an area of the compound not occupied by them. We will never know whether that plan would have worked: the Branch Davidians began to shoot at the tank like vehicles inserting the gas canisters, and C.S. gas was then directed at all parts of the compound, as previously decided in a fall back plan recommended by military advisers.

V. RECOMMENDATIONS

A. The Deputy Attorney General's formulation and recommendations

The DAG has, in his overview, outlined the critical elements to be considered in dealing with a situation like Waco in the future. This is an excellent formulation. Based on what I have learned and what I have described above, I strongly endorse his formulation and the recommendations which follow. However, unlike the other panelists in my group, I am impressed that the FBI has adequate in-house expertise to deal with unconventional groups like the Branch Davidians. Furthermore, it seems clear that at Waco, the FBI was suffering from information overload, if from anything. Thus, I believe that the crisis management capacity (see DAG recommendations) and what I would describe as information management have to be the particular focus for future change.

B. Recommendations of this panelist

1. Further investigation is necessary

On might think that the highest priority after a tragedy like Waco would be for everyone involved to consider what went wrong and what would they now do differently. I must confess that it has been a frustrating and disappointing experience to discover that the Justice Department's investigation has produced so little in this regard. The investigators have assured me that everyone involved was asked these questions and that few useful responses were given. An undercurrent of opinion holds that everything depends and will depend in the future on the commander on the ground. SAC Jamar, the commander on the ground, knows that he is on the spot and that there are those who point to his position as the weak link at Waco. When I asked him what went wrong and what should be done differently, he candidly acknowledged his difficult position; but he emphasized how much was still unknown about what happened, and that he still had not met with the FBI Waco negotiators to discuss their view of what happened. His basic conclusion in retrospect, however, was that nothing the FBI had done at Waco made any real impact. His opinion is that Koresh sent people out because he didn't want them, and not because of the FBI's conciliatory negotiation strategy. His opinion is that Koresh ended it all in mass suicide not because of the FBI tactical strategy, but because that was always his intention. His deep and serious concern about his responsibilities was impressive and he made it convincingly clear how much more I and the other experts needed to know about the acts. On this, he was preaching to the converted. There is no doubt in my mind that much more needs to be known about Waco. In my opinion, it is now time for the FBI itself, with the help and participation of outside experts, to take on that responsibility. Indeed, that is my first recommendation. I agree with the FBI's commander on the ground that we still do not know enough about what happened at Waco. We need to know more, not in the spirit of who is to blame, but in the spirit of what went wrong that can be made right. What can we learn from a careful study of David Koresh and the Branch Davidians that will help us in learning about other unconventional groups?

What can the FBI learn about its own behavior at Waco that will help in the future?

Just as I believe the FBI has more work to do, I believe the Justice Department has work to do as well. No clear pictures has emerged of how and on what basis the AG made her decision. Given on my current information about C.S. gas, it is difficult to understand why a person whose primary concern was the safety of the children would agree to the FBI's plan. It is critical that in the future, the AG have accurate information, so that she can make an informed decision. If the only information she was given about C.S. gas is what has been shown to the panelists then, given my current understanding, she was ill advised and made an ill-advised decision. None of these matters have been clarified. Certainly for its own effective functioning, the Justice Department needs to sort this out for the future.

The sequence of decision making set out in the earlier account indicates that the FBI had already moved very far down the branch of the decision tree before consulting the AG. This made it difficult for her to make any other choice. Presumably, others in the Justice Department had been involved every step of the way. Like the FBI, they need to re-examine their own behavior, the channels of communication, the processing of information, and what went wrong or needs to be done differently in the future. I assume that the DAG's recommendation of a ''senior career official'' within the Justice Department, who maintains ''a familiarity with the resources available to the FBI,'' is a forward looking solution to some of these problems.

2. The FBI Needs To Make Better Use of Past Experience and Existing Behavioral Science Capacity

As we have been told, the commander on the ground was not selected because of his past experience in standoffs or because of his knowledge of unconventional groups. He was the special agent in charge of the geographical area in which the action took place. The DAG has recommended a different command structure. Nonetheless, the FBI had a situation room in Washington and a command structure in place at Waco which could have brought the agency's past experience to bear. At the first briefings, when asked to describe their most successful resolution of a standoff with an unconventional group, an FBI official reported the successful use of a third party intermediary (negotiator). When I subsequently inquired about the FBI's previous experience with the successful use of CS gas, the example given was a prison riot.

These examples speak for themselves and suggest to me that in making decisions at Waco, the FBI did not make the best use of its own past experience. The commander on the ground believes his decision to allow lawyers and the local sheriff to meet with Koresh is an example of using a third-party intermediary. However, in their own highly successful resolution of a stand-off with an armed unconventional group, the FBI used a fellow member of the religious faith as the intermediary. This option was apparently rejected at Waco for reasons that I find unconvincing.

The DAG has recommended that a computer database of past stand-offs be developed. The critical importance of this is to insure that the FBI makes better use of its own experience. It will be important for the FBI to distinguish between unconventional groups and prison populations in deciding which tactical measures are strategically and ethically appropriate.

3. The FBI Needs a Clear Policy on Third Party Negotiators/Intermediaries

The FBI has well-trained negotiators whose skills are impressive. Nonetheless, there came a time at Waco when the FBI's frustration led them to introduce a new negotiating approach. They changed from a conciliatory, trust-building negotiator to a more demanding and intimidating negotiator. The change had no effect and may have been counterproductive. The negotiators also tried, at times, to talk religion with Koresh but concluded that this was not productive.

Some FBI negotiators are convinced that they could have gotten more people out of the compound if the FBI had stayed the course of conciliatory negotiation. Whether or not that is true, the FBI reached a point where tactical strategy became the priority and negotiation under those circumstances became ineffective.

It is my recommendation that this point of change be defined as a red light, a time when the decision makers in future standoffs should consider the use of a third party negotiator/intermediary. The red light should go on when the commander on the ground or the chain of command begins to feel that FBI negotiation is at a stand still.

The FBI negotiation and behavioral science experts should, at the least, develop a policy in consultation with experts on when they might consider the use of third party negotiators/intermediaries. The current working policy seems to be that third party negotiators are counterproductive. The experience justifying that policy needs to be reviewed in light of Waco. It was a significant omission at Waco not to involve as a third-party negotiator/intermediary a person of religious stature familiar with the unconventional belief system of the Branch Davidians.

4. The FBI and the Justice Department Need a Systematic Policy for Dealing With Information Overload in a Crisis

A critical element of crisis management based on my analysis of what happened at Waco is information management. Information overload allows decision-makers to discount all of the expert advice they are given and revert to their own gut instincts. Alternatively—as I believe we learn from Waco—the decision-makers can insist on being given advice compatible with their gut instinct. In my opinion, the gut instinct that prevailed at Waco was the law enforcement mind-set, the action-control imperative.

If, as the DAG recommends, the FBI develops a network of academic experts in behavioral science, religion, sociology, and psychiatry, the FBI can certainly expect an information overload in the next crisis. The problem will be how to manage the expert information overload. This is a complex problem that requires careful consideration by appropriate experts. However, one pattern that emerged from my understanding of Waco needs to be changed. The official investigation lists all kinds of experts who allegedly were consulted or who took it upon themselves to offer unsolicited advice. It is almost impossible to determine what all this adds up to. One of my fellow panelists believes—and I am convinced—that the FBI never actually consulted with a religious expert familiar with the unconventional beliefs of Branch Davidians. The investigators at the Justice Department disagree with this conclusion. My concern about this is not a matter of fault-finding: it is critical to my concern about information management in a crisis. The question is: what counts as a consultation with the FBI? One has the impression from the Waco experience that a variety of agents were talking to a variety of experts, and that some of these contacts were listed as consultations. We are not told how those contacts or consultations were sorted through. Who in the process would decide what was relevant and important and what irrelevant and unimportant.

In any event, the prevailing pattern in the information flow during the crisis was for each separate expert to offer the FBI an opinion. As a preliminary matter, it seems to me important for the FBI to establish who the relevant experts are and then arrange through conference calls or more high-tech arrangements for sustained dialogue among them, to understand and clarify the dimensions of their disagreements and, when possible, to achieve consensus. Information should be exchanged and differences directly confronted in the circle of consultants; they should not vanish in the information overload.

5. The FBI Needs a Better Knowledge Base About the Medical Consequences of CS Gas

As discussed above, is my opinion that the AG was not properly informed of the risks to infants and small children posed by CS gas. This is not to imply that the FBI intentionally misled her. Indeed, the FBI may not have had the proper medical information. The use of CS gas is, in any event, a controversial matter, and although it is understandable that the Justice Department investigation did not explore medical considerations, a careful evaluation is clearly indicated. The FBI, the Justice Department, and all of law enforcement that uses CS gas ought to have as clear an understanding of its medical consequences as possible. The hasty survey of the medical and scientific literature done for this report is hardly definitive. These matters should be sorted out so that the AG clearly understands what the use of CS gas entails.

6. The FBI Needs a Specific Policy for Dealing With Unconventional Groups

The basic conclusion of my account and analysis is that the standard law enforcement mentality asserted itself at Waco in the tactical show of force. The FBI should be aware of its own group psychology and of the tendency to carry out the action imperative. Doubtless, that imperative is appropriate in dealing with conventional criminals; it may be necessary even in dealing with unconventional groups. However, the lesson of Waco is that once the FBI recognizes that it is dealing with an unconventional group, those who urge punishing tactical measures should have to meet a heavy burden of persuasion. When children are involved, the burden should be even heavier and ethical considerations, which need to be formulated, would come into play.

VI. FINAL WORD

The events at Waco culminated in a tragic loss of life—on that everyone involved in law enforcement and in the official inquiry agree. There is a view within the FBI and in the official reports that suggests the tragedy was unavoidable. This report is a dissenting opinion from that view. There is obviously no definitive answer; but my account and analysis tries to emphasize what might have been done differently at Waco, and what I believe should be done differently in the FBI's future dealings with unconventional groups. I endorse the DAG's recommendations for change and offer additional suggestions. Although such a determination falls outside my province, it is my considered opinion that the failings of the FBI at Waco involve no intentional misconduct.

The PRESIDING OFFICER. The pending question is amendment No. 1199. Is there further debate?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

NOMINATION OF J. GARVAN MURTHA

Mr. LEAHY. Mr. President, I thank the distinguished chairman for his usual courtesy. My remarks will be very brief.

One of the reasons I wanted to speak was to thank the distinguished chairman and thank the Republican leader, Senator DOLE, and thank our distinguished ranking member, Senator BIDEN, and the distinguished Democratic leader, Senator DASCHLE, for their willingness to move through a number of judicial nominations last night, one of which was for the State of Vermont.

Vermont, as the distinguished chairman knows, is currently, because of retirements and promotions and other reasons, the only State in the union that does not have a Federal district judge, other than in senior status. The distinguished chairman of our committee worked with me, Senator JEFFORDS, and others, to help us move through very quickly the nomination of Gar Murtha to be the new Federal district judge. I applaud the Senator from Utah for that, and I thank him for his help.

Mr. President, I will make a couple of personal comments. I have known Gar Murtha from the years when both he and I were young lawyers, young prosecutors in the State of Vermont. I knew him as a prosecutor of great ability and total integrity. My family and the Murtha family have been close and dear friends from that time. I have watched he and his wife, Meg, raise their three wonderful children, Elizabeth, John and Will. They are model members of their community. They are respected by everyone—Republican, Democrat, Independent, liberal, conservative and moderate—within their community as people of great family values and true traditional Vermont values. He is also known as a lawyer of the highest excellence.

When the U.S. Senate voted to confirm Gar Murtha as a Federal judge last night, I think it made a very, very wise choice indeed.

I told President Clinton, when I asked him to nominate Gar Murtha, that he could do so knowing that this is a decision that would be one he could always be proud of. He would know that it is a decision he could make without any concern or qualm, just as I had no concern or qualm in recommending Gar Murtha to the President of the United States.

So my feeling as a Vermonter, first and foremost, is that I am glad to see we are now going to have a Federal district judge. But, also, as one who has known Gar Murtha for 25 years, I know that our State is fortunate to have him, and the Federal bench is fortunate to have him. He follows in a great tradition of tremendous Federal judges we have had in Vermont—Judge Oakes, Judge Coffrin, Judge Parker, Judge Billings, Judge Gibson, Judge Leddy and Judge Holden. These are people that I have known, and I have practiced law before many of them. Gar Murtha will now be part of a very stellar constellation indeed.

When I recommended Mr. Murtha to the President back in December, I described him as a respected lawyer from the southern part of Vermont who has a wide range of legal experience. He has distinguished himself by his contributions to the community and by his participation in efforts to improve our justice system. I told the President that he could feel very secure in making this nomination and that in the years to come it will reflect well on him, the Senate, and Vermont.

I have great confidence that Gar Murtha will be a fair, thoughtful, and judicious addition to the Federal bench in Vermont.

Mr. Murtha is an outstanding lawyer and exceptional person who will make a fine Federal judge and serve all of the people of Vermont and the Nation and the interests of justice by applying the law fairly and honestly.

I first met Gar when I was serving as State's attorney for Chittenden County and he as deputy State's attorney for Windham County. I was in the northwestern part of the State and he in the southeastern. He developed and has maintained a reputation of absolute, rock-ribbed integrity.

I know of his involvement in the community, in the State, and in the bar in a number of positions, including his service as a public defender here in the District of Columbia, his service on the Second Circuit Task Force on Gender, Racial, and Ethnic Fairness and on the Second Circuit's Committee on Federal Rules.

The father of three, Mr. Murtha has demonstrated in his family life, in his civic life, and in his professional life, the sense of community that Vermonters value so highly. He has served on a number of boards and commissions in southern Vermont. He is active in youth, community, and civic organizations.

Gar is a person of great fairness and integrity and an outstanding lawyer with wide-ranging experience. I have every confidence that he will make an outstanding Federal judge, who will be just, practical, and hardworking on behalf of all. I have heard from lawyers and people from all over the State who have expressed their support for this nomination and their appreciation that their Federal judge will be one who will ensure a fair trial for all, whether plaintiff or defendant, whether poor or rich.

Since Judge Billings assumed senior status and Judge Parker was confirmed to the U.S. Court of Appeals for the Second Circuit last year, Vermont has been without a full-time U.S. district judge. Vermont deserves to have its Federal judges considered, confirmed, and in place ready to rule on important matters.

In light of these circumstances, I want to extend special thanks to the majority leader, the Judiciary Committee chairman, the Democratic leader and our ranking member and all our colleagues for proceeding promptly on this nomination and confirming Mr. Murtha to the Federal court bench.

It was my honor and privilege to recommend J. Garvan Murtha to the President of the United States and to present him to the Senate Judiciary Committee for consideration of his nomination to be the next U.S. district judge for Vermont. It is now my pleasure to thank our Senate colleagues for the consent that they provide to this nomination and to announce to the people of Vermont that the nomination of their new Federal judge has been confirmed by the U.S. Senate.

COMPREHENSIVE TERRORISM PREVENTION ACT

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, this is a very important bill. It is apparent that we are trying to get a list of the amendments that people have so that we can hopefully get a unanimous-consent agreement on amendments and, when we get that, finish this bill in a very expeditious, good way.

Last evening, the President of the United States sent a letter to the distinguished Republican leader with regard to this bill. It is a very interesting letter. President Clinton, in this letter, has expressed his interest in ''working with the Congress toward the enactment of this critical legislation as soon as possible''.

I share the President's commitment to do exactly that.

His letter outlines a number of provisions which he feels should be in the bill. Indeed, most of the proposals he cites are already addressed by the substitute, S. 735. To the extent that S. 735 does not address some of these issues, I believe we are already aware of amendments covering these issues which some of our colleagues plan to offer.

Accordingly, in order to assure that we can meet the President's request to enact this critical legislation as soon as possible, I believe we should try to reach a unanimous-consent agreement on amendments.

The Democrats have already made us aware of at least 17 amendments. I believe all of what the President has requested in his letter which is not addressed in S. 735 would be addressed by one or more of these amendments. There are only a handful of Republican amendments thus far. Three of them are substantive and a few others are more technical in nature.

Before we take up amendments, I will say that I hope our Democratic colleagues will do all they can to help us to reach a unanimous-consent agreement on the total list so that we can wrap up this bill for today. I am dismayed that we need to wait to resolve these matters. Nevertheless, we are going to do what is right in this area.

Mr. President, I ask unanimous consent that the letter from the President be printed in the RECORD at this point, so that all of our colleagues can see the effort the President has put forth in this letter.

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

THE WHITE HOUSE,
Washington, DC, May 25, 1995.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: I write to renew my call for a tough, effective, and comprehensive antiterrorism bill, and I urge the Congress to pass it as quickly as possible. The Executive and Legislative Branches share the responsibility of ensuring that adequate legal tools and resources are available to protect our Nation and its people against threats to their safety and well-being. The tragic bombing of the Murrah Federal Building in Oklahoma City on April 19th, the latest in a disturbing trend of terrorist attacks, makes clear the need to enhance the Federal Government's ability to investigate, prosecute, and punish terrorist activity.

To that end, I have transmitted to the Congress two comprehensive legislative proposals: The ''Omnibus Counterterrorism Act of 1995'' and the ''Antiterrorism Amendments Act of 1995.'' In addition, the Senate has under consideration your bill, S. 735, the ''Comprehensive Terrorism Prevention Act of 1995.'' I understand that a substitute to S. 735, incorporating many of the features of the two Administration proposals, will be offered in the near future. I also understand that the substitute contains some provisions that raise significant concerns. We must make every effort to ensure that this measure responds forcefully to the challenge of domestic and international terrorism. I look forward to working with the Senate on the substitute and to supporting its enactment, provided that the final product addresses major concerns of the Administration in an effective, fair, and constitutional manner. The bill should include the following provisions:

Provide clear Federal criminal jurisdiction for any international terrorist attack that might occur in the United States, as well as provide Federal criminal jurisdiction over terrorists who use the United States as the place from which to plan terrorist attacks overseas.

Provide a workable mechanism to deport alien terrorists expeditiously, without risking the disclosure of national security information or techniques and with adequate assurance of fairness.

Provide an assured source of funding for the Administration's digital telephony initiative.

Provide a means of preventing fundraising in the United States that supports international terrorist activity overseas.

Provide access to financial and credit reports in antiterrorism cases, in the same manner as banking records can be obtained under the current law through appropriate legal procedures.

Make available the national security letter process, which is currently used for obtaining certain categories of information in terrorism investigations, to obtain records critical to such investigations from hotels, motels, common carriers, and storage and vehicle rental facilities.

Approve the implementing legislation for the Plastic Explosives Convention, which requires a chemical in plastic explosives for identification purposes, and require the inclusion of taggants—microscopic particles—in standard explosive device raw materials which will permit tracing of the materials post-explosion.

Expand the authority of law enforcement to fight terrorism through electronic surveillance, by expanding the list of felonies that could be used as the basis for a surveillance order; applying the same legal standard in national security cases that is currently used in routine criminal cases for obtaining permission to track telephone traffic with ''pen registers'' and ''trap and trace'' devices; and authorizing multiple-point wiretaps where it is impractical to specify the number of the phone to be tapped (such as when a suspect uses a series of cellular phones).

Criminalize the unauthorized use of chemical weapons in solid and liquid form (as they are currently criminalized for use in gaseous form), and permit the military to provide technical assistance when chemical or biological weapons are concerned, similar to previously authorized efforts involving nuclear weapons.

Make it illegal to possess explosives knowing that they are stolen; increase the penalty for anyone who transfers a firearm or explosive materials, knowing that they will be used to commit a crime of violence; and provide enhanced penalties for terrorist attacks against all current and former Federal employees, and their families, when the crime is committed because of the official duties of the federal employee.

In addition, the substitute bill contains a section on habeas corpus reform. This Administration is committed to any reform that would assure dramatically swifter and more efficient resolution of criminal cases while at the same time preserving the historic right to meaningful Federal review. While I do not believe that habeas corpus should be addressed in the context of the counterterrorism bill, I look forward to working with the Senate in the near future on a bill that would accomplish this important objective.

I want to reiterate this Administration's commitment to fashioning a strong and effective response to terrorist activity that preserves our civil liberties. In combating terrorism, we must not sacrifice the guarantees of the Bill of Rights, and we will not do so. I look forward to working with the Congress toward the enactment of this critical legislation as soon as possible.

Sincerely,

BILL CLINTON.

Mr. HATCH. Mr. President, let me just take a few minutes on the subject of habeas corpus reform, so that everybody will understand what the Specter-Hatch habeas corpus reform bill, which is part of this bill, will do to significantly reduce the delays in carrying out executions without unduly limiting the right of access to Federal courts.

The bill would reduce the filing of repetitive habeas corpus petitions which delay the carrying out of death sentences to such extremes as to reduce the deterrent value of the death penalty.

Under this bill, death sentences, if upheld, will be carried out, in most cases, within 2 years of final State court action. That will be in contrast to the 10 to 18 years that it is currently taking to get finality in these cases—usually because frivolous appeal after frivolous appeal is filed, all at a cost of millions and millions of dollars to the taxpayers of our society. Most prosecutors tell me that they spend a high percentage of their time just answering habeas corpus petitions and that it is a tremendous cost to the taxpayers, and almost all of them are frivolous. Now, this bill protects those that are not frivolous. It will protect their rights, and it will do right by the people filing.

Under this bill, death sentences, if upheld, will be carried out, in most cases, within 2 years of final State court action—at the most, 3 years. The bill would, first, establish a 6-month statute of limitations for filing a Federal habeas corpus petition in capital cases if the State makes counsel available in its State court habeas corpus. They have 1-year statute of limitations for noncapital cases.

Second, this bill will establish time limits on Federal court consideration on habeas corpus petitions in capital cases if the State provides counsel during State habeas corpus.

The Federal district court would have an additional 180 days to decide a capital habeas corpus petition. That would be 120-some days for a briefing and hearing, 60 days for the court to render a decision.

Now, the district court will be able to extend the limit for 30 additional days for good cause stated in writing. The court of appeals, then, must decide any appeal in a capital habeas corpus case within 120 days of final briefings.

Third, we allow a Federal court to overturn a State court decision only if it is contrary to clearly established Federal law or if it involves an ''unreasonable application'' of clearly established Federal law to the facts, or if the State court's factual determination is unreasonable.

Fourth, we restrict the filing of repetitive petitions by requiring that any second petition be approved for filing in the district court by the court of appeals. A repetitive petition would only be permitted in two circumstances: One, if it raises the claim based on a new rule of constitutional law that is retroactively applicable; or, two, if it is based on newly discovered evidence that could not have been discovered through due diligence in time to present the claim in the first petition and that, if proven, would show by a clear and convincing evidence that the defendant was innocent.

Fifth, we encourage States to provide qualified counsel to indigent defendants in capital cases during State court habeas corpus. The Constitution, of course, already requires that States appoint qualified counsel for trial and direct appeal. In this case, we encourage the States to provide qualified counsel in these capital cases during State court habeas corpus appeals.

Sixth, we provide for the Federal Government to provide counsel to indigent petitioners and Federal habeas corpus petitions in both capital and noncapital cases, if a Federal judge so orders. And I really do not know of any case, any capital case, where the Federal judge will not so order.

This outlines, and it is a summary of the Specter-Hatch habeas reform bill. I hope our colleagues will realize that this is the time to finally face this issue that has involved just countless frivolous appeals throughout the history of jurisprudence in this country.

It is time to have some finality in these matters. We protect the constitutional rights and privileges of the individual defendants, but we say, ''The game is over.'' There will not be any more of these ingenious appeals that are frivolous in nature that literally will not meet those two requisites that I mention.

We also say to the American taxpayers, we will not keep funding frivolous appeals by people on death row. We are not going to have another 10, 12, or 18 years, as is the Andrews case in Utah, the case called ''hi-fi,'' where Andrews participated with another person in killing a variety of people, but only after they tortured them. They ran pencils through their eardrums, and in one case, poured Drano down the throat of one of the victims. For 18 years, there was no question that Andrews did the murder. No question he was guilty. No question of the heinous nature of the crime. There was no question that the jury was right in rendering the verdict it did. But those appeals went on for 18 years, and in each of these aspects of the appeal the victims and their families had to go through the whole unpleasant, vicious, terrible experience again.

Every one of the appeals was frivolous. For 18 years and 28 appeals. All the way up through the State courts, from the lower trial court, to the immediate appellate court, to the State supreme court. In this case, mainly the trial court and the State supreme court. All the way up through the Federal court, district court, circuit court of appeals, the Tenth Circuit Court of Appeals, and the Supreme Court of the United States of America. It made a mockery of the law.

I cannot blame anybody who hates the death penalty for trying to do everything in his or her power as a defense lawyer to try to deter somebody from going to the final date of execution, but the law is the law, and whether a person hates the death penalty or thinks it is the right thing, the fact is, it is the law.

I do not have any fault with any defense lawyer who has done his or her best to try and free these people or at least alleviate the death penalty. I do not have any problem with their efforts in that regard. I have a problem with the law that allows that type of frivolous repetitive appeals. This is the time to change that law.

By the way, this is the only thing we can do in this antiterrorism bill, it seems to me, that will do something about the Oklahoma City bombing. The only thing we can do, it seems to me, to bring swift justice, as the President has called for, to the perpetrators of the Oklahoma City bombing.

Frankly, it is something that we have to bite the bullet on, and get it done. We are willing to face the music on this and to fight this battle out on the floor. I would like it to be one of the later aspects of this matter. The fact is, it is time to face it.

When I talked to families of the victims, and the victims themselves just a few days ago, they begged me to make sure that we pass this bill and that we pass the habeas corpus reform that we have on the bill. Many of the State attorneys general, both Democrats and Republicans State attorneys general, want Congress to pass this habeas corpus reform bill.

I think most everybody wants Congress to pass the whole bill. The people out there are sick and tired of the problems.

Frankly, I assured those who have been suffering so much from the Oklahoma City bombing, and those who suffer all over this country, from the repetitive appeals that are frivolous in nature, and the need to continually go to all of those hearings, I have assured them we will face the habeas corpus problem on this matter, and that we will pass the Specter-Hatch habeas corpus bill.

We hope we can do that in this battle, and I will do everything in my power to see that it is done. It is no secret that there are some on the floor who do not like our changes in habeas corpus. It is going to be a controversial issue. I do believe that a majority of the Members of this body will vote for it.

There are many other things that I would like to discuss about the bill. It is a very complex bill. It is a very detailed bill. It is a bill that covers almost every aspect of antiterrorism. It is one that is long overdue. And we are going to handle this.

Let me digress for a minute, because my dear colleague from Pennsylvania is concerned about having hearings on Waco and Ruby Ridge. I have been in constant contact with the Justice Department, with the FBI, and with ATF, and they are willing to do this. They are willing to do this. Whether they are willing or not, they know we are going to do this, sooner or later.

They would prefer, as the FBI Director has requested in writing to me, that we defer the hearings until they have completed their investigation in Oklahoma City. They have also indicated that sometime this summer they feel that it will be all right, in any event.

So we do intend to press forward. We are putting our investigators on this issue. They have been on it. We will see what we can do.

I share my colleagues' deep concern over these incidents. I believe a thorough congressional review of these and related Federal law enforcement issues is warranted. I intend that these hearings will be held in the near future following Senate consideration of this comprehensive antiterrorist legislation, upon the completion of the department's investigation of the Oklahoma tragedy.

Notwithstanding my desire to have hearings on this matter, I have resisted doing so right at this time, and I believe doing so at this time would only serve to confuse these important issues. I do not believe that the Waco and Ruby Ridge incidents should be linked to the Oklahoma City incident or to the terrorist issues or hearings at this time.

The Senate could, if we held hearings at this time, inappropriately—albeit unintentionally—convey the wrong message regarding the culpability of those responsible for the atrocity in Oklahoma City. We simply must not do this. Indeed, the Senate went on record to this effect on May 11, 1995, by a vote of 74 to 23, when it tabled a sense-of-the-Senate resolution which would have set a date certain for these hearings. But I assure my colleague from Pennsylvania, we probably will hold these hearings before the end of this summer and before our August recess. We will do the best we can. If it does take more time than that, we will certainly state the reasons. But that is our firm intention and we hope we can get that done.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I ask unanimous consent to speak as in morning business for just a matter of 3 minutes so I can speak to a subject unrelated to what we are discussing now.

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

EDUCATION

Mr. BIDEN. Mr. President, in over 20 years in the Senate I do not think I have done this twice, but I will say, to be safe, I do not think I have done it a half dozen times. I would like to read into the RECORD a letter that I received yesterday from a woman who is graduating from high school in my State, a woman I have never met. Her name is Mrs. Judi Robinson. She lives in old New Castle, DE, which is a community over 350 years old, a beautiful place, in a place called Penn Acres. I would like to read it, if I may.

DEAR SENATOR BIDEN, I am a 48-year-old night student at William Penn High School in New Castle. I'm one of many students who recently wrote to you concerning adult education. Thank you for your letter. It helped me a little more to understand what it concerns.

I have been in the program since September 1994 and received my G.E.D. that June. Now I'm at Penn doing very well and will

graduate this June. It took me 31 years to get to this point in my life, so I thank God that there was a program available to me. Although my circumstances are different than some of my classmates, we're all there for the same reasons, to get our G.E.D. or better yet our diploma. Senator as far as I'm concerned, I wanted this very badly, but I have been married 27 years, have two children one of which also graduates this year from Penn. I never had to work so my education wasn't the top on my list. Because my husband worked and took care of us and the house. But most of the kids in the program need this educational program to continue to grow into productive adults. Our counselors and teachers are the best, they work very hard to keep things going well at school. These programs need to keep going and I know that you will do your best to keep it going.

Now to get to the second reason I'm writing to you. I would like to take this opportunity to invite you to my graduation on June 14 at 7:30 p.m. It will take place at Newark High School. Myself and I know all the other students and staff would be honored to have you there. I know you are a very, very busy man but if you could find it in your heart and schedule to make it, I would be happy to have you there.

Sincerely,

MRS. JUDI ROBINSON.

Mr. President, the reason I read that into the RECORD is I do not think we should lose sight of the fact that there are thousands and thousands and thousands of women and men like Judi Robinson who are going back to try to get the basic education that for whatever reasons they did not get when they were children. I think our reluctance to put as much emphasis on the educational needs in this country and the Federal responsibility to participate in that is a serious mistake. I am sure all of my colleagues, and I know the Senator in the chair, the Senator from Colorado, like everyone else in here, shares a sense of pride when there is someone in their State like Judi Robinson who goes through that effort.

I remember discussing with my friend from Colorado how his mother went back and her significant educational accomplishments and what she has done. I just thought it worthwhile to let people know that there are a lot of people like Judi Robinson still fighting hard, who still have faith in this operation, still have faith in the system, and still think they can better themselves through education.

I thank the Chair for this time and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. I ask unanimous consent that I may be permitted to speak for up to 5 minutes as if in morning business.

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

Mr. SPECTER. I thank the Chair.

NOMINATION OF DR. HENRY FOSTER

Mr. SPECTER. Mr. President, I compliment the Labor and Human Resources Committee for reporting out the nomination of Dr. Henry Foster to be Surgeon General of the United States.

Earlier this morning, the committee met and by a 9-to-7 vote recommended the confirmation of Dr. Foster for Surgeon General. Two Republicans joined with seven Democrats in favoring his nomination and thereby bringing the nomination to the floor.

It is my hope that we will take up Dr. Foster in this Chamber. It is my sense that there are sufficient votes to bring Dr. Foster to a vote in the face of what has been announced to be a prospective filibuster. There is at least one Senator on the committee as reported who favors bringing Dr. Foster to a vote even though that Senator voted against him in committee.

I had occasion to meet with Dr. Foster early on, and at that time I was convinced that the sole issue was the issue of whether Dr. Foster should be disqualified from being Surgeon General because he had performed abortions, a medical procedure which is legal and authorized by the U.S. Constitution. It seemed to me at that time that all the other matters which were brought up were red herrings, and that real opposition to Dr. Foster lay in the fact that he had performed abortions, a procedure authorized by the Constitution of the United States.

I said on the Senate floor early on that Dr. Foster was entitled to be heard by the committee, entitled to have his day in court, so to speak, in this Chamber for a vote, both out of fairness to Dr. Foster as an individual and really as a sign that nobody would be railroaded out of this town without having a day in court, a chance to have an up-or-down vote in the Senate.

There is a very important precedent beyond Dr. Foster as an individual as to what he is entitled to as a matter of fairness and that is to others who may be interested in coming to Washington, tempted to come to Washington to perform public service. And many would be discouraged if Dr. Henry Foster would not be entitled to fair treatment by the Senate of the United States.

I thought that reasons given by our colleague, Senator FRIST, in supporting Dr. Foster's nomination were very important; that Senator FRIST, a physician himself, emphasized Dr. Foster's commitment to try to combat teenage pregnancy, and that may be the No. 1 social problem in America today. If that can be brought under control, then there is no better person to try to do that than the Surgeon General of the United States. And also Dr. Foster's commitment to press for abstinence and to press for family values; those are positions which I think are very appropriate for the Surgeon General.

So Dr. Foster has cleared a very significant hurdle in the affirmative vote of the Labor and Human Resources Committee. Some predicted he would never get that far.

From what I sense, the climate in our body is to favor his nomination coming to the floor for a vote. I think a filibuster will be defeated and I think ultimately Dr. Foster will be confirmed. That is a very positive sign of respect for the laws of the United States, as interpreted by the Supreme Court, that a woman does have a right to choose, that a nominee like Dr. Foster is not disqualified because he performed a medical procedure, albeit abortion, authorized by the Constitution, and that men and women of character and good will can come to this town and get a fair hearing and perform an important public service.

I thank the Chair and I yield the floor.

COMPREHENSIVE TERRORISM PREVENTION ACT

The Senate continued with the consideration of the bill.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I rise to speak on the bill before the Senate at this time, S. 735, the Comprehensive Terrorism Prevention Act of 1995.

Mr. President, let me say first how pleased I am that the leadership of both parties has reached agreement on so much in this bill and met President Clinton's challenge to reach a prompt and bipartisan consensus on counterterrorism legislation in the aftermath of the tragedy in Oklahoma City.

Most of the key provisions of the President's counterterrorism bill, offered earlier in the year by Senator BIDEN and others, are included in the measure before us. And I thank the majority leadership of the committee for doing so. But, as Senator BIDEN mentioned last night, there are a few provisions that have not been included.

That is why this morning I will offer two amendments which would restore two provisions from the original bill to this genuinely bipartisan effort, and I am hopeful that there is an opportunity here for bipartisan support for these two law enforcement measures, as well.

Mr. President, in my view, and in the view of those I have spoken to in the Federal and State law enforcement communities who are involved in the daily, difficult business of pursuing terrorists, these two provisions, which would increase law enforcement's capacity to be involved in surveillance through wiretapping of terrorists, would be extremely helpful to the law enforcement community's efforts to penetrate the highly secretive world of

terrorists. Indeed, I can imagine a number of situations where the power granted by these two amendments would provide exactly the kinds of tools that could make a difference in stopping terrorists before they strike.

Mr. President, since joining the Senate, I have spent a fair amount of time and effort considering how we, as a nation, can best prepare ourselves to counter and stop terrorists' threats because of my fear that, though America domestically has been relatively spared, at least was when I began these inquiries, from the pain of terrorist attack, certainly more so than other nations in the world, that because of political events in the world, it was inevitable that unless we directed, created some defense there, we would suffer. And, unfortunately, we have.

As I look back, the first hearing I ever chaired as a Senator concerned the coordination of our antiterrorism efforts. And in every presentation on hearings that I have been involved in since, whether as a member of the Governmental Affairs Committee or involved in the ad hoc task force on terrorism, which I was privileged to organize, witness after witness, whether they were from the State Department or the FBI or the U.S. attorney's offices, or think tanks around this city or country, emphasized the special importance of surveillance and infiltration to preventing and prosecuting terrorist attacks.

Mr. President, this says the obvious, but it needs to be said: Terrorists are cowards. Terrorists are cowards because they strike at undefended targets. And while we are quite logically now, in the aftermath of Oklahoma City, attempting to rebuild our defenses around more likely targets, particularly public buildings affected, the terrorist group that wants to create panic in our society, wants to punish our society, wants to strike at the sense of order and security in our society can, as we have seen in other settings, just as easily not strike at a governmental building, but go down the street and attack a large private building, an office building, or strike, as some have suggested, at the water supply in a community; so that we can never defend against all the potential targets of terrorists.

The best defense is an offense. And the offense in this case, as this bill carries out in many ways, is to be watching people who indicate by their own behavior that they are capable of violent acts. I am not talking about inhibiting political freedoms here. We are not talking about prohibiting anybody from writing or speaking or demonstrating in a way that they believe, even if we find it abhorrent. But if they act in a way that indicates they may be capable of violent acts, criminal acts, then we, the people, should have our law enforcement agents there watching them, listening to them, infiltrating their groups to see to it that whenever possible we can stop them; we can strike before they strike at the heart of our society to prevent more death and destruction.

The witnesses that spoke to committees that I have been on were commenting mostly on internationally inspired terrorism, but they focused again on the importance of electronic surveillance as a component of the overall approach of stopping terrorist acts whenever possible before they are committed, and electronic surveillance is part of that.

I would argue that electronic surveillance may be more important with domestically based terrorists than with international terrorism. So far as we know, they are not generally reliant on outside State sponsors who, at some point, may be vulnerable to political or military pressure.

Our weapons here are limited to effective law enforcement, including one of the most powerful tools law enforcement has, which is carefully circumscribed, legally authorized electronic surveillance, particularly in this high-technology communication age.

AMENDMENT NO. 1200 TO AMENDMENT NO. 1199

(Purpose: To amend the bill with respect to emergency wiretap authority)

Mr. LIEBERMAN. So, Mr. President, the first amendment I am offering today would add the words ''domestic or international terrorism'' to the limited number of situations in which the Attorney General, the Deputy Attorney General, or the Assistant Attorney General can obtain an emergency 48-hour wiretap without having to go court in that first period of time. Under current law, those three Justice Department officials and no others may authorize emergency electronic surveillance where there is ''first, immediate danger of death or serious physical injury to any person; second, conspiratorial activities threatening the national security; and third, conspiratorial activities characteristic of organized crime.''

This all is when there is not, in the opinion of the law enforcement officials, time to get a court order. But the important condition in this law is that within 48 hours of that emergency authorization for electronic surveillance from within the Justice Department, law enforcement officers must obtain a court order for the wiretap under the normal proceedings for court orders.

They must submit the same affidavits and documents establishing probable cause that are required for any other wiretap.

The top three Justice Department officials who can make these emergency authorizations have a strong incentive to be cautious and correct in authorizing emergency wiretaps without a court order, because if a judge does not issue a court order supporting a wiretap within 48 hours, any information obtained via the emergency wiretap is inadmissible in court.

Mr. President, this amendment, therefore, would simply add the words ''activities characteristic of domestic or international terrorism'' to the list of emergency situations where law enforcement has hours, and not days, to get the evidence needed to make an arrest, find a chemical weapon, diffuse a bomb or perhaps rapidly clear a building that may be the target of a terrorist attack.

Given the devastating effects of these terrorist acts, which are assaults not only on individuals but on whole communities—in fact on our Nation and on the democratic processes and the liberties that we have—do we not want to give our law enforcement officials the same authority to obtain temporary emergency wiretaps they have under current law when pursuing organized crime cases? I think so, and I believe the American people would think so as well.

Mr. President, I, therefore, have an amendment which I send to the desk at this time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 1200 to amendment No. 1199.

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

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

The amendment is as follows:

Insert at the appropriate place the following new section:

SEC. . REVISION TO EXISTING AUTHORITY FOR EMERGENCY WIRETAPS.

(a) Section 2518(7)(a)(iii) of title 18, United States Code, is amended by inserting ''or domestic terrorism or international terrorism (as those terms are defined in 18 U.S.C. 2331), for offenses described in section 2516 of this title.'' after ''organized crime''.

(b) Section 2331 of title 18, United States Code, is amended by inserting the following words after subsection (4)—

''(5) the term 'domestic terrorism' means any activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State and which appear to be intended to intimidate or coerce a civilian population or to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping.''.

(c) Section 2518(7) of title 18 is amended by adding after ''Notwithstanding any other provision of this chapter,'' ''but subject to section 2516,''.

Mr. LIEBERMAN. Mr. President, I want to finally, before yielding the floor, indicate for the RECORD that the amendment does not change the underlying crimes for which an emergency wiretap can be authorized in title 18, United States Code, section 2516. It just says that if those crimes are part of a domestic terrorist plot, an emergency wiretap can be ordered. And these crimes include: Any offense punishable by death or imprisonment for more than 1 year, including violations of the Atomic Energy Act relating to sabotage of nuclear facilities and fuel or espionage and treason.

Also, let me point out that the definition of ''terrorism'' covers violent acts or acts dangerous to human life.

Mr. President, I urge adoption of the amendment. I yield the floor.

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

Mr. STEVENS addressed the Chair.

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

Mr. STEVENS. Mr. President, I ask unanimous consent to proceed as in morning business for the purpose of explaining a bill which I would like to introduce at this time.

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

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 868 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I understand what my dear colleague from Connecticut is trying to do with this expansion of the emergency wiretap authority, but I apologize to him because I have to rise to oppose this amendment which would expand emergency wiretap authority permitting the Government to begin a wiretap prior to obtaining court approval in a greater range of cases than the law presently allows.

I find this proposal troubling, and let me list some reasons. I am concerned that this provision, if enacted, would unnecessarily broaden emergency wiretap authority. Under current law, such authority exists when life is in danger, when the national security is threatened, or when an organized crime conspiracy is involved. That is title 18, United States Code, section 2518(7).

This authority is constrained by a requirement that the surveillance be approved by a court within 48 hours. The President's proposal contained in this amendment would expand these powers to any conspiratorial activity characteristic of domestic or international terrorism. I personally do not believe that this expansion is necessary to effectively battle the threat of terrorism.

Virtually every act of terrorism one can imagine which would require an emergency wiretap—that is, the threat is so immediate that the Government cannot obtain a court order before instituting the wiretap—will certainly also involve ''an immediate danger of death or serious physical injury,'' or ''a conspiratorial activity threatening the national interest,'' as defined in current law. Thus, expanding the Government's emergency wiretap powers to any conspiratorial activity characteristic of domestic or international terrorism would add little to existing authority. However, the little that it does add or will add is particularly troubling.

This amendment defines domestic terrorism in an unwise and extremely broad manner. The amendment defines domestic terrorism, in part, as ''any activities that involve violent acts or acts dangerous to human life and which appear to be intended to intimidate or coerce a civilian population or to influence the policy of Government by intimidation or coercion.''

That is a potentially vague and very loose standard. There are legitimate acts of protest that could be caught up in this definition, because they, in some way, pose a danger or are viewed as ''intimidating.''

No one, of course, would contend that activities that truly threaten the public safety or an individual should go uninvestigated or unpunished. However, the standard for initiating a wiretap without a court order should certainly be higher than this amendment proposes.

Mr. President, a wiretap order is deliberately somewhat difficult to obtain. It is more difficult because it is more difficult to get the Justice Department to approve it than it is to get a judge or magistrate to approve it. Because wiretaps are so intrusive and conducted in secret by the Government in circumstances under which the subject has a reasonable expectation of privacy, the courts and Congress have required that the Government meet a heightened burden of necessity before using a wiretap to ensure that civil liberties are secure.

The law also, of course, recognizes exigent circumstances, because in a true emergency, when lives are at risk, we would not want law enforcement to wait for court-approved wiretaps any more than we expect a police officer to obtain a search warrant before chasing an armed and fleeing suspect into a house. Our present wiretap statute recognizes this with its emergency provision and expanding the exception should give us pause. We must ensure that in our response to recent terrorist acts, we do not destroy the freedom that we cherish. I fear that the amendment does take us a step down that road, and for these reasons, I oppose the amendment.

Let me mention one other thing. The distinguished Senator from Connecticut is very sincere and well-intentioned with this amendment. I acknowledge that. And he is an acknowledged authority on law enforcement. But I have to question whether this amendment would permit the Government to obtain emergency wiretaps; in other words, a wiretap without a court order—let me repeat that; a wiretap obtained without a court order—of, let us say, some of these groups in our society today, ranging from the right to the left. Take a gay rights group like Act Up, or an environmental group like some of the more vociferous environmental groups; or you could take some groups on the right that are vociferous that stage a sit-in that may violate some State property or some loitering felony. It seems to me that a demonstration blocking a busy street or entrance to a church or hospital could endanger human life under certain circumstances, and certainly a demonstration of this nature would be intended to change the Government's policy. This amendment could thus permit the Government to listen to the conversations of such groups without obtaining a court order.

This is deeply troubling to me, and I think to anybody who believes in the Bill of Rights and in the important protections the Constitution affords us. It is easy to come up with circumstances that would justify a wiretap, but then you meet the emergency requirements already in law. So I would rather stick with the current law.

So I urge my fellow Senators to vote against this. That is with a full understanding of what the distinguished Senator from Connecticut is trying to do, and with some sympathy toward what he is trying to do, except I do not think we should expand the wiretap laws any further.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. I rise to support Senator LIEBERMAN's amendment on emergency wiretap authority. Quite frankly, Mr. President, this amendment would add to this bill the President's proposal in the President's original bill to extend authority for emergency wiretaps—which are already available, I might add, for organized crime cases—to terrorism crimes. And I am sure people looking at this debate are probably thinking: Wait a minute. Senator ORRIN HATCH is arguing against this on civil liberties grounds, and BIDEN being for this—I was going to facetiously say something, but I will not say it. This is no time for humor.

At any rate, the reason I am for this bill—and I have a pretty long record and history here of being as vigilant in the civil liberties of Americans and constitutional rights as anyone in this body—is that I do not see a lot of distinction between crimes of terrorism and organized crime. It is kind of basic to me. If the justification exists for organized crime, why would it not exist for crimes of terrorism?

Now, let me explain first what probably my friend from Connecticut has already explained—I apologize if I am going over old ground; I will be brief—what an emergency wiretap is and how limited an emergency wiretap is.

In almost all cases, the Government has to get a court order to initiate a wiretap, under stringent standards set out in current law. The emergency wiretap authority allows the Government to initiate a wiretap without a court order in emergency situations involving, one, immediate danger of death or serious physical injury to any person; conspiratorial activities threatening national security; or conspiratorial activities characteristic of organized crime activities. Only the top three Justice Department officials—the Attorney General, Deputy

Attorney General, and Associate Attorney General—can organize an emergency wiretap.

Now, if it stopped there, I could see why a lot of people would say, even with that, that is still too dangerous, and there is still too much exposure for Americans of their civil liberties. But even in those emergency situations, the law requires the Government to seek judicial approval of the wiretap within 48 hours.

So it is not like there can be an emergency wiretap placed on the authority of the top three Justice Department officials, the top three, and left on and then the information used. Within 48 hours, they have to get a court order or cease and desist. That is the second requirement.

First, it has to fit the criteria of immediate danger, death, and so on, which I read. Second, within 48 hours, there has to be a court order. Third, if when they go for the court order, the judge disagrees or declines, the wiretap has to end, and any evidence that has been gotten in that 48 hours cannot be used. It is sort of an exclusionary rule, if you will. It cannot be used.

So Senator LIEBERMAN's amendment, consistent with what the President asked for, would add to the list of emergency situations the following: Conspiratorial activities characteristic of domestic or international terrorism. It seems to me no less broad than conspiratorial activities characteristic of organized crime activities.

Now, the consistent position for my friends to take here, if they are going to take on the amendment of the Senator from Connecticut, would be to amend the existing law to strike conspiratorial activities characteristic of organized crime. I doubt whether they would want to do that. So I am kind of at a loss that if they think that is a good idea, why not conspiratorial activities characteristic of domestic or international terrorism? Is someone going to tell me that they are more at jeopardy or less at jeopardy from the Gambino family than we are from some bunch of screwballs running around in the woods who are planning on blowing up a building? When is the last time the Mafia blew up a building? They are not good guys; they are all bad guys. But I do not quite understand the logic here. I do not understand the logic.

Of course, a wiretap is a powerful and intrusive investigative tool. We have to be careful to guard against its abuses. There are several statutory restrictions that prevent the abuse of emergency wiretaps, none of which would be changed by this amendment.

Now, there is much more that I am inclined to say, but I will not. I will conclude by saying, if a wiretap is authorized and the Government then goes to court within 48 hours, if the order is not granted, the interception is treated as a violation of title III and is inadmissible in trial. This provision, in my view, works no great expansion on the wiretap statute. The Government is still required to get a judicial order. But it is simply allowed to get an order after the fact when there is an emergency situation. The amendment simply extends the emergency wiretap authority to terrorism offenses and, surely, terrorism is as great a threat as organized crime. This is a narrow and sensible amendment. I urge my colleagues to support it.

Let me emphasize that the amendment does not expand the list of offenses which can be investigated using a wiretap. By the way, most Americans—and I know my friend was a distinguished prosecutor and attorney general of his State. He knows full well—but even most practicing lawyers do not know—that you cannot, under the Federal law, get a wiretap for all felonies. You cannot get them for every crime. Most people think that if the FBI has reason to believe any felony is being committed, they can go get a wiretap. That is not true. They cannot even ask for a wiretap for certain crimes.

This does not expand the list of things for which they can have an emergency wiretap. Nor does it expand the list that a judge, when it is 48 hours later and we say, ''Judge, make this real,'' the judge cannot say, ''Well, it is not covered as subject matter for wiretap under the law now, but I will let you do it because the change of the law allows it.'' It does not do that.

It does not expand offenses which can be investigated using a wiretap. All it does is allow an emergency wiretap for those domestic and international terrorist offenses which involve violent acts and acts dangerous to human life. The wiretap must then be approved by the court. Quite frankly, I do not see how it could be construed to cover a simple political demonstration, as my friend from Utah fears.

What I fear is that we are not making a false distinction between acts of terrorism and organized crime. I do not hear anybody suggesting that if the Gambino family gets together for a picnic, we are worried about whether or not an emergency wiretap may impact on their right to have a picnic. I do not hear them saying that.

If a bunch of wackos get together talking about the Federal Government, and the Government has reason to believe they are preparing for or engaging in acts of violence, why not them, too?

To put it in crass terms, if we can mess up the Gambino picnic, we should be able to mess up the screwball picnic, if there is evidence—if there is evidence—that there is a likelihood of a violent act or violent crime to be committed.

I do not know who we are protecting, but it does not seem to make any sense to me. No safeguards that exist now are being reduced. We are adding an additional category, the category seems reasonable to me.

I compliment the Senator on his amendment. I yield the floor.

Mr. SPECTER. Mr. President, I oppose the pending amendment, and I do so with a deference to my colleague from Connecticut because of his experience as Attorney General.

I believe that we ought to be very circumspect and very careful before expanding wiretapping authority at all until there has been an opportunity for very careful study. That opportunity is not present here.

As I have listened to the very abbreviated arguments in the course of less than 30 minutes, there may be no expansion beyond the current law. Nobody has cited an illustration as to what would be subject to wiretap under Senator LIEBERMAN's amendment that would not be subject to wiretap under existing law. It may well be that there are sufficient vagaries in the language of the amendment which could render it overbroad.

This bill has not been subjected to the usual legislative process of a markup, which is where the committee sits down and goes over the bill and considers amendments in a more deliberative fashion than an amendment being presented and debated on the floor over the course of 30 minutes, or a few minutes more.

In saying this, I do not fault, at all, the distinguished Senator from Connecticut, because these are the rules of procedure in the Senate. I do say that it ought to give Members some pause.

As we speak, we are on a Friday near noon and many Senators are waiting to catch planes. The distinguished clerk is nodding in the affirmative. I do not think we ought to legislate in this kind of a rush. Expanding wiretap authority may have a very, very serious impact on civil liberties. No compelling need has been shown for adopting this amendment and, therefore, I think the amendment ought not to be enacted. Under these procedures and time constraints, I am sure of that. I yield the floor.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, let me assure my friend and colleague from Pennsylvania that I am in no rush.

I have been following this question of how we can best counter terrorism for a long time, and I have been working with people in the FBI, the U.S. attorney offices, and the Justice Department. They tell me that that is an expanded authority that will help them combat terrorism.

I have spent a fair amount of time thinking about this amendment. I have concluded that it gives one more weapon to the folks that are fighting on our side against the terrorists.

Mr. President, I must say I am a little bit surprised by some of the objections which suggest that this authority, limited as it is, as the Senator from Delaware made clear, 48-hour emergency wiretap, three officials at the Justice Department, can authorize on a showing of necessity the same

grounds that a court would use if a court does not similarly authorize the wiretap within 48 hours, it is over, and the evidence seized in between is inadmissible.

Let me go to the concern about whether this authority might be used against domestic political groups compromising their civil liberties. There is nowhere in the language of the proposal, let alone the underlying law which it amends, to suggest that that is possible. It is certainly not my intention.

The term ''domestic terrorism'' which as Senator BIDEN has indicated is what this is about, we take the language here, conspiratorial activities characteristic of organized crime, which an emergency wiretap can be grounded, and add conspiratorial activities characteristic of domestic terrorism.

How do we define ''domestic terrorism?'' It means any activities that involve violent acts, or acts dangerous to human life, that are criminal—that are a violation of the criminal laws of the United States or any State; and on top of that, which appear to be intended to intimidate or coerce a civilian population or influence the policy of the Government by intimidation and coercion.

It takes more than the intention to intimidate or coerce the Government or the American people, one must be contemplating or involved in violent acts or criminal acts with that purpose.

Now, there is no mainstream or out of the mainstream political group that just is expressing points of view that is by any stretch of the imagination going to be subject to an emergency wiretap under this provision.

There is a general point, and I will make it as my final point. It does cover international terrorism as well. We are not talking just domestic political groups, but people or agents of foreign governments, agents of foreign groups that may be on our soil, moving around, attempting or planning acts of violence against us.

The general point in terms of the concern of civil liberties. As is true in so many of these questions of law and order and maintaining that basic order that is the precondition of our liberties, the question is, who do we give the benefit of the doubt? Are we going to side with the potential victims of a terrorist act? Are we going to stretch over so far backward in our concern about civil liberties that we give the benefit of the doubt to the would-be terrorists? To me there ought to be a simple answer to that equation.

It is, in another sense, do we trust those in positions of authority? I have had the privilege of working in law enforcement. The U.S. attorneys, the FBI, the Secret Service—they are not perfect. They are just people. But by and large these are people who are out there every day, as we have seen too often, putting their lives on the line for Government to maintain the order that does protect our liberty.

Give me a choice of giving them another narrowly circumscribed authority to use to stop terrorism, I am going to give it to them with the confidence that in almost every case I can think of, they will use it in an appropriate way. If for some reason they do not, within 48 hours a judge is going to come along and say ''That is it, take the wiretap off.'' And not only that, everything that has been gathered in the 48 hours is inadmissible in court.

This power, incidentally, that has existed under this statute regarding national security and organized crime cases, has rarely been used because of the standard set up in the law and because of the deterrent that if a judge does not confirm the original authorization by the Justice Department, evidence is inadmissible.

Mr. President, I think this is just one smart tool, another smart tool, to give the folks who are out there fighting terrorists on our side to make sure we stop the terrorists before they stop us. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I understand the distinguished Senator from Delaware would like to speak?

Mr. BIDEN. Mr. President, I ask unanimous consent that a letter and testimony regarding this bill be printed in the RECORD.

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

GUN OWNERS OF AMERICA,
Springfield, VA, May 18, 1995.

DEAR SENATOR: The tragic bombing in Oklahoma City has, unfortunately, provoked a ''feeding frenzy'' of efforts to manipulate the unfortunate victims for the political advantage of certain special interests and ideological points of view. These efforts have been embodied in attempts to blame pro-Second Amendment organizations, pro-life groups, or Republicans in general for what appear to be the actions of isolated madmen.

In this climate, it is particularly important that we not over-react or react foolishly to the heart-rending events which we, as a nation, have witnessed. On April 27, S. 735 was introduced by the Majority Leader and the Chairman of the Senate Judiciary Committee, and was brought directly onto the Senate calendar. While avoiding some of the most extreme proposals which have been posited for political advantage in the wake of the bombing, S. 735 nevertheless contains some provisions which are far too dangerous to be considered without hearings, markup, and the normal checks and balances of the legislative process.

As introduced, Gun Owners of America would oppose S. 735, and would rate any vote for that legislation as an anti-gun vote. In particular, we object to provisions of S. 735 which would:

Allow the BATF to go after gun dealers for far-reaching ''conspiracy'' charges involving no overt act at all;

Significantly broaden the materials which the Secretary of the Treasury could require from law-abiding businesses, groups and individuals;

Preempt state law enforcement efforts in many circumstances which are primarily of local concern,

Broaden the authority of the FBI to make demands of citizens not suspected of crimes, and, in general, increase the ability of government to intrude on the privacy and rights of individuals.

It may well be the Congress, after due consideration, will decide that some changes in federal law are necessary. But this is not an area where legislation should be adopted prior to full consideration of the ramifications of that legislation. I therefore urge you to step back, hold hearings, and take time to consider what, if any, changes in federal law would genuinely address the issue of terrorism, rather than merely serving as a political placebo. The country and the Constitution will both be healthier as a result of your efforts.

Sincerely,

LARRY PRATT,
Executive Director.

EXCERPTS FROM WRITTEN TESTIMONY BEFORE THE U.S. SENATE COMMITTEE ON THE JUDICIARY, SUBMITTED BY DAVID B. KOPEL, ASSOCIATE POLICY ANALYST

WIRETAPPING

Various proposals have been offered to expand dramatically the scope of wiretapping. For example, the Clinton bill defines almost all violent and property crime (down to petty offenses below misdemeanors) as ''terrorism'' and also allow wiretaps for ''terrorism'' investigations.

Other proposals would allow wiretaps for all federal felonies, rather than for the special subet of felonies for which wiretaps have been determined to be especially necessary. Notably, wiretaps are already available for the fundamental terrorist offenses: arson and homicide. Authorizing wiretaps for evasion of federal vitamin regulations, gun registration requirements, or wetlands regulations is hardly a serious contribution to anti-terrorism, but amounts to a bait-and-switch on the American people.

Currently, FBI wiretapping, bugging, and secret break-ins of the property of American groups is allowed after approval from a seven-member federal court which meets in secret. Of the 7,554 applications which the FBI has submitted in since 1978, 7,553 have been approved.

Making the request for vast new wiretap powers all the more unconvincing is how poorly wiretap powers have been used in the past. Terrorists are, of course, already subject to being wiretapped. Yet as federal wiretaps set new record highs every year, wiretaps are used almost exclusively for gambling, racketeering, and drugs. The last known wiretap for a bombing investigation was in 1998. Of the 976 federal electronic eavesdropping applications in 1993, not a single one was for arson, explosives, or firearms, let alone terrorism. From 1983 to 1993, of the 8,800 applications for eavesdropping, only 16 were for arson, explosives, or firearms. In short, requests for vast new wiretapping powers because of terrorism are akin to a carpenter asking for a pile driver to hammer a nail, while a hammer lies nearby, unused.

Even more disturbing than proposals to expand the jurisdictional base for wiretaps are efforts to remove legal controls on wiretaps. For example, wiretaps are authorized for the interception of particular speakers on particular phone lines. If the interception target keeps switching telephones (as by using a variety of pay phones), the government may ask the court for a ''roving wiretap,'' authorizing interception of any phone line the target is using. Yet while roving wiretaps are currently available when the government shows the court a need, the Clinton and Dole bills allow roving wiretaps for ''terrorism''

without court order. (Again, remember that both bills define ''terrorism'' as almost all violent or property crime.)

The Foreign Intelligence Surveillance Act (FISA) provides procedures for authorizing wiretaps in various cases. These procedures have worked in the most serious foreign espionage cases. Yet the Clinton and Dole bills would authorize use of evidence gathered in violation of FISA in certain deportation proceedings.

WARRANTLESS DATA GATHERING

Proposals have also been offered to require credit card companies, financial reporting services, hotels, airlines, and bus companies to turn over customer information whenever demanded by the federal government. Document subpoenas are currently available whenever the government wishes to coerce a company into disclosing private customer information. Thus, the proposals do not increase the type of private information that the government can obtain; the proposals simply allow the government to obtain the information even when the government cannot show a court that there is probable cause to believe that the documents contain evidence of illegal activity.

Similar analysis may be applied to proposals to increase the use of pen registers (which record phone numbers called, but do not record conversations, and thus do not require a warrant). If a phone company has a high enough regard for its customers' privacy so as to not allow pen registers to be used without any controls, the government may obtain a court order to place a pen register. Business respect for customer privacy ought to be encouraged, not outlawed.

CURTAILING FIRST AMENDMENT RIGHTS OF COMPUTER USERS

For some government agencies, the Oklahoma City tragedy has become a vehicle for enactment of ''wish list'' legislation that has nothing to do with Oklahoma City, but which it is apparently hoped the ''do something'' imperative of the moment will not examine carefully.

One prominent example is legislation to drastically curtail the right of habeas corpus. Although Supreme Court decisions in recent years have already sharply limited habeas corpus, prosecutors' lobbies want to go even further. Two obvious points should be made: First, habeas corpus has nothing to do with apprehending criminals; by definition, anyone who files a habeas corpus petition is already in prison. Second, habeas corpus has nothing to do with Oklahoma City in particular, or terrorism in general.

A second example, of piggybacking irrelevant legislation designed to reduce civil liberties are current FBI efforts to outlaw computer privacy.

If a person writes a letter to another person, he can write the letter in a secret code. If the government intercepts the letter, and cannot figure out the secret code, the government is out of luck. These basic First Amendment principles have never been questioned.

But, if instead of writing the letter with pen and paper, the letter is written electronically, and mailed over a computer network rather than postal mail, do privacy interests suddenly vanish? According to FBI director Louis Freeh, the answer is apparently ''yes.''

Testifying before the Senate Judiciary Committee about Oklahoma City, director Freeh complained that people can communicate over the internet ''in encrypted conversations for which we have no available means to read and understand unless that encryption problem is dealt with immediately.'' ''That encryption problem'' (i.e. people being able to communicate privately) could only be solved by outlawing high quality encryption software like Pretty Good Privacy.

First of all, shareware versions of Pretty Good Privacy are ubiquitous throughout American computer networks. The cat cannot be put back in the bag. More fundamentally, the potential that a criminal, including a terrorist, might misuse private communications is no reason to abolish private communications per se. After all, people whose homes are lawfully bugged can communicate privately by writing with an Etch-a-Sketch. That is no reason to outlaw Etch-a-Sketch.

Although Mr. Freeh apparently wants to outlaw encryption entirely, the Clinton administration has been proposing the ''Clipper Chip.'' The federal government has begun requiring that all vendors supplying phones to the federal government include the ''Clipper'' chip. Using the federal government's enormous purchasing clout, the Clinton administration is attempting to make the Clipper Chip into a de facto national standard.

The clipper chips provides a low level of privacy protection against casual snoopers. But some computer scientists have already announced that the chip can be defeated. Moreover, the ''key''—which allows the private phone conversation, computer file, or electronic mail to be opened up by unauthorized third parties—will be held by the federal government.

The federal government promises that it will keep the key carefully guarded, and only use the key to snoop when absolutely necessary. This is the same federal government that promised that social security numbers would only be used to administer the social security system, and that the Internal Revenue Service would never be used for political purposes.

Proposals for the federal government's acquisition of a key to everyone's electronic data, which the government promises never to misuse, might be compared to the federal government's proposing to acquire a key to everyone's home. Currently, people can buy door locks and other security devices that are of such high quality that covert entry by the government is impossible; the government might be able to break the door down, but the government would not be able to enter discretely, place an electronic surveillance device, and then leave. Thus, high-quality locks can defeat a lawful government attempt to read a person's electronic correspondence or data.

Similarly, it is legal for the government to search through somebody's garbage without a warrant; but there is nothing wrong with the privacy-conscious people and businesses using paper shredders to defeat any potential garbage snooping. Even if high-quality shredders make it impossible for documents to be pieced back together, such shredders should not be illegal.

Likewise, while wiretaps or government surveillance of computer communications may be legal, there should be no obligation of individuals or businesses to make wiretapping easy. Simply put, Americans should not be required to live their lives in a manner so that the government can spy on them when necessary.

Thus, although proposals to outlaw or emasculate computer privacy are sometimes defended as maintaining the status quo (easy government wiretaps), the true status quo in America is that manufacturers and consumers have never been required to buy products which are custom-designed to facilitate government snooping.

The point is no less valid for electronic keys than it is for front-door keys. The only reason that electronic privacy invasions are even discussed (whereas their counterparts for ''old-fashioned'' privacy invasions are too absurd to even be contemplated), is the tendency of new technologies to be more highly restricted than old technologies. For example, the Supreme Court in the 1920's began allowing searches of drivers and automobiles that would never have been allowed for persons riding horses.

But the better Supreme Court decisions recognize that the Constitution defines a relationship between individuals and the government that is applied to every new technology. For example, in United States v. Katz, the Court applied the privacy principle underlying the Fourth Amendment to prohibit warrantless eavesdropping on telephone calls made from a public phone booth—even though telephones had not been invented at the time of the Fourth Amendment. Likewise, the principle underlying freedom of the press—that an unfettered press is an important check on secretive and abusive governments—remains the same whether a publisher uses a Franklin press to produce a hundred copies of a pamphlet, or laser printers to produce a hundred thousand. Privacy rights for mail remain the same whether the letter is written with a quill pen and a paper encryption ''wheel,'' or with a computer and Pretty Good Privacy.

Efforts to limit electronic privacy will harm not just the First Amendment, but also American commerce. Genuinely secure public-key encryption (like Pretty Good Privacy) gives users the safety and convenience of electronic files plus the security features of paper envelopes and signatures. A good encryption program can authenticate the creator of a particular electronic document—just as a written signature authenticates (more or less) the creator of a particular paper document.

Public-key encryption can greatly reduce the need for paper. With secure public-key encryption, businesses could distribute catalogs, take orders, pay with digital cash, and enforce contracts with veriable signatures—all without paper.

Conversely the Clinton administration's weak privacy protection (giving the federal government the ability to spy everywhere) means that confidential business secrets will be easily stolen by business competitors who can bribe local or federal law enforcement officials to divulge the ''secret'' codes for breaking into private conversations and files, or who can hack the clipper chips.

* * * * *

RIGHT TO KEEP AND BEAR ARMS

Cracking down on militias

Equating all militias with white supremacists is nonsense. Like the Los Angeles Police Department, some militias may have members, or even officers, who are racist, but that does not mean that the organization as a whole, or the vast majority of its members are racists. Most militias are composed of people with jobs and families; people who are seeking to protect what they have, not to inflict revenge on others for their own failings.

The frenzy of hatred being whipped up against law-abiding militia members is not unlike the hatred to which law-abiding Arab-Americans would have been subjected, had Oklahoma City been perpetrated by the Libyan secret service. It is not unlike the hatred to which Japanese-Americans were subjected after World War II. Ironically, some politicians who complain about the coarse, angry tone of American politics do so in speeches in which they heap hate-filled invective upon anyone and everyone who belongs to a militia.

As this Issue Brief is written, no evidence has developed which ties any militia (let

alone all of them) to the Oklahoma City crime. At most, two suspects are said to have attended a few militia meetings and left because the militias did not share their goals. This fact no more proves a militia conspiracy than the hypothetical fact that the suspects went to church a few times would prove that the Pope and Jerry Falwell masterminded the Oklahoma City bombing.

That someone who perpetrated a crime may have attended a militia meeting is hardly proof that all militias should be destroyed. The step-father of Susan Smith (the alleged South Carolina child murderer) sexually molested her one night after he returned from putting up posters for the Pat Robertson presidential campaign. What if someone suggested that the ''radical'' patriarchal theories espoused by Robertson and the Christian Coalition created the ''atmosphere'' which led to the incestuous rape, and that therefore all Christian Coalition members were responsible for the crime, and the FBI should ''crack down'' on them? The claim would be dismissed in a second; equally outrageous claims about gun owners should likewise be dismissed.

It is a sad testament to the bigotry of certain segments of the media that totally unsubstantiated, vicious conspiracy theories of the type which were once employed against Catholics and Jews are now being trotted out against militia members, patriots, and gun owners.

No militia group was involved with the Oklahoma City bombing. Despite the hate-mongering of the media, the ''need'' to start spying on militia groups is a totally implausible basis for expansion of federal government powers.

Moreover, militia groups hold public meetings, sometimes advertising in local newspapers. There is hardly a need for greater ''surveillance'' of such public groups.

To respond intelligently to the militia and patriot movements, we must acknowledge that, although the movements are permeated with implausible conspiracy theories, the movements are a reaction to increasing militarization, lawlessness, and violence of federal law enforcement, a genuine problem which should concern all Americans.

We must also remember that it is lawful in the United States to exercise freedom of speech and the right to bear arms. Spending one's weekends in the woods practicing with firearms and listening to right-wing political speeches is not my idea of a good time, but there is not, and should not, be anything illegal about it.

If we want to shrink the militia movement, the surest way is to reduce criminal and abusive behavior by the federal government, and to require a thorough, open investigation by a Special Prosecutor of what happened at Waco and at Ruby Ridge, Idaho. If, as the evidence strongly suggests, the law was broken, the law-breakers should be prosecuted, even if they happen to be government employees.

Conversely, the persons responsible for the deaths of innocent Americans should not be promoted to even-higher positions in the FBI or federal law enforcement. If the Clinton administration were trying to fan the flames of paranoia, it could hardly do better than to have appointed Larry Potts second-in-command at the FBI.

Militias and patriot groups have been understandably ridiculed for a paranoid world-view centered on the United Nations and international banking. But ironically, many of the people doing the ridiculing share an equally paranoid world-view. Most members of the establishment media and the gun control movement have no more idea what a real militia member is like than militia members have about what a real international banker is like. In both cases, stereotyping substitutes for understanding, and familiar devils (the United Nations for the militia, the National Rifle Association for the establishment media) are claimed to be the motive force behind the actions of a man who (allegedly) believes that the government put a microchip in his buttocks.

Nearly twenty years ago, an article in the Public Interest explained the American gun control conflict:

''[U]nderlying the gun control struggle is a fundamental division in our nation. The intensity of passion on this issue suggests to me that we are experiencing a sort of low-grade war going on between two alternative views of what America is and ought to be. On the one side are those who take bourgeois Europe as a model of a civilized society: a society just, equitable, and democratic; but well ordered, with the lines of authority clearly drawn, and with decisions made rationally and correctly by intelligent men for the entire nation. To such people, hunting is atavistic, personal violence is shameful, and uncontrolled gun ownership is a blot upon civilization.

''On the other side is a group of people who do not tend to be especially articulate or literate, and whose world view is rarely expressed in print. Their model is that of the independent frontiersman who takes care of himself and his family with no interference from the state. They are 'conservative' in the sense that they cling to America's unique pre-modern tradition—a non-feudal society with a sort of medieval liberty at large for every man. To these people, 'sociological' is an epithet. Life is tough and competitive. Manhood means responsibility and caring for your own.''

The author explained the disaster that America will create for itself if fearful in government attempt to ''crack down'' on fearful gun-owners, thereby fulfilling the worst fears that each group has of the other:

''As they [the gun-owners] say to a man, 'I'll bury my guns in the wall first.' They ask, because they do not understand the other side, 'Why do these people want to disarm us?' They consider themselves no threat to anyone; they are not criminals, not revolutionaries. But slowly, as they become politicized, they find an analysis that fits the phenomenon they experience: Someone fears their having guns, someone is afraid of their defending their families, property, and liberty. Nasty things may happen if these people begin to feel that they are concerned.

It would be useful, therefore, if some of the mindless passion, on both side, could be drained out of the gun-control issue. Gun control is no solution to the crime problem, to the assassination problem, to the terrorist problem. . . . [S]o long as the issue is kept at a white heat, with everyone having some ground to suspect everyone else's ultimate intentions, the rule of reasonableness has little chance to assert itself.''

ASSAULT WEAPONS

Perhaps the most cynical effort to exploit the Oklahoma City tragedy is the effort of gun prohibition advocates to use the murders as a pretext for preserving the federal ban on so-called ''assault weapons.'' To state the obvious, the Oklahoma City bombing was perpetrated with a bomb, not a gun. The bombers may have attended meetings of groups which support the right to keep and bear arms, but that does not prove that gun rights groups were coconspirators, despite the vicious insinuations of some gun prohibition advocates.

The reasons for repealing the gun ban remain as strong as ever. First of all, Congress has no Constitutional power (under the Constitution's text and original intent) to ban the simple possession (as opposed to sale in interstate commerce) of anything.

Second, if one looks at actual police data (rather than unsupported claims from anti-gun police administrators), ''assault weapons'' constitute only about one percent of crime guns.

Third, despite the menacing looks of so-called ''assault weapons,'' they are not more powerful or more deadly than firearms with a more conventional appearance. Instead, the ''assault weapon'' ban is based on cosmetics, such as whether a gun has a bayonet lug—as if criminals were perpetrating drive-by bayonetings.

Finally, the ban has already been nullified for all practical purposes. Since the law defines an ''assault weapon'' based on trivial characteristics like bayonet lugs, gun manufacturers have already brought ought new versions of the banned guns, minus the cosmetically offensive bayonet lugs and similar components.

Repeal of the ''assault weapon'' ban makes sense as a move towards a more rational federal criminal justice policy. It makes even more sense when its social impact is considered. Many gun control advocates acknowledged that ''assault weapons'' were a tiny component of the gun crime problem, but they still liked the ban because of its symbolic value. A great many other people, however, were very upset by the symbolic message of the gun ban. Some of them have joined militias, patriot groups, or similar organizations. Indeed, it would be no exaggeration to say that President Clinton, Representative Schumer, and Senator Feinstein have, through pushing the gun ban through Congress, done more to promote the surge in militia membership than anyone else in the nation.

If we want to reduce the number of people who are frightened by the federal government, the federal government should stop frightening so many people. Given the irrelevance of the ''assault weapon'' ban to actual crime control, repeal of the ban would be a very important step that the federal government could take to convincing millions of Americans that it is not a menace to their liberty. Conversely, retention of a ban on cosmetically-incorrect firearms by law-abiding citizens would be a strong statement to the American people that their federal government does not trust them; and if so, why should they trust it?

BAN ON TRAINING

Morris Dees of the Southern Poverty Law Center has begun promoting a federal ban on group firearms training which is not authorized by state law. First of all, state governments are perfectly capable of banning or authorizing whatever they want. The proposal for a federal ban amounts to asking Washington for legislation similar to that which various allies of Mr. Dees promoted at the state level in the 1980s, with little success. The vast majority of states having rejected a training ban, the federal government should hardly impose the will of the small minority on the rest of the states.

A former direct-mail fundraiser for the antigun lobby, Mr. Dees may be forgiven for a low level of concern for the exercise of the right to keep and bear arms. But the right to keep and bear arms necessarily includes the right to practice with them, just as the Constitutional right to read a newspaper editorial about political events necessarily includes the right to learn how to read. Just as the government may not forbid people from learning how to read in groups, it may not forbid people from learning how to use firearms in groups.

''Organizing, arming, and training in conjunction with a political agenda would be

seen as dangerous in any other society but our own,'' a private security consultant recently told Congress, demanding that ''these groups be flatly dealt with as 'enemies of our society.'''

Of course the United States was founded by ''religious nuts with guns,'' and later achieved independence as a result of a war instigated by people who organized, armed, and trained with a political agenda. The spark of the revolutionary war, the battle of Lexington and Concord, was prompted by the ruling government's attempts to confiscate the ''assault weapons'' of the day held by local militias. It was at the Concord Bridge where militiamen were ordered to ''wait until you see the whites of their eyes'' and then shot government employees who were coming to arrest them for possessing an illegal ''assault weapon'' (a cannon). The Texan revolution against Mexico likewise began over civilian possession of ''military'' arms, when the Mexican government demanded that settlers hand over a cannon, and the Texans replied, ''Come and take it!''

The militiamen of Concord Bridge and Texas may have broken the law, but they were great men, worthy of admiration by every schoolchild, and every other American. ''You need only reflect that one of the best ways to get yourself a reputation as a dangerous citizen these days is to go around repeating the very phrases which our founding fathers used in their struggle for independence,'' observed American historian Charles A. Beard.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Some people have claimed that criticism of an alleged pattern of criminal conduct at the Bureau of Alcohol, Tobacco and Firearms is tantamount to complicity in the Oklahoma City bombing. If so, then the United States Senate is the party ultimately at fault. In 1982, the Senate Subcommittee on the Constitution investigated the BATF and unanimously concluded that the agency had habitually engaged in:

''. . . conduct which borders on the criminal. . . . [E]nforcement tactics made possible by current firearms laws are constitutionally, legally and practically reprehensible. . . . [A]pproximately 75 percent of BATF gun prosecutions were aimed at ordinary citizens who had neither criminal intent nor knowledge, but were enticed by agents into unknowing technical violations.''

If it is legitimate for a United States Senate subcommittee to find that BATF operations consist of ''conduct which borders on the criminal,'' it is hardly inappropriate for other persons to point out similar conduct.

The Waco raid was the most spectacular, but hardly the only instance of abuse of power by BATF in conducting search warrants.

On December 16, 1991 (the first day of the third century of the Bill of Rights), sixty BATF agents, accompanied by two television crews, broke into the Oklahoma home of John Lawmaster. Acting on a tip (suspected to be from Lawmaster's ex-wife) that Lawmaster had illegally converted a semiautomatic to full automatic, BATF worked with the ex-wife to lure Lawmaster away from his home before the raid. With Lawmaster absent, BATF knocked down his front door with a battering ram. While some agents stood guard with weapons drawn, other agents broke open his gun safe, scattered his personal papers, spilled boxes of ammunition onto the floor, and broke into a small, locked box that contained precious coins. To look through some ceiling tiles, one agent stood on a table, breaking the table in the process.

Neighbors who asked what BATF was doing were threatened with arrest. Having found nothing illegal, BATF left weapons and ammunition strewn about the home, and departed. They closed the doors, but since BATF had broken the doors on the way in, the doors could not be latched or locked. Upon returning to the shambles that remained of his home, Lawmaster found a note from BATF: ''Nothing found.'' Utility company representatives arrived, and told Lawmaster that they had been told to shut off all his utilities.

One of the field commanders of the Waco raid was Ted Royster, head of BATF operations for Texas, Oklahoma, and New Mexico. Royster also supervised the Lawmaster ''raid,'' watching the operation from a parked vehicle with tinted windows.

On February 5, 1993—23 days before the Waco raid—BATF ransacked the home of Janice Hart, a black woman in Portland, Oregon, terrorizing her and her three children for hours, destroying her furniture, slamming a door on a child's foot, forcing two children to wait outside in a car while Ms. Hart was interrogated inside, and refusing to allow her to call an attorney, until BATF discovered that there was a case of mistaken identity. (BATF had been looking for Janice Harold, who bears no resemblance to Mrs. Hart.) In this case, unlike most others, BATF did at least send a check for damages, although no apology was offered.

As reported by the Washington Times:

''In 1990, [Louis Katona] lent a military-style grenade launcher to ATF for use in an unrelated prosecution, but it was never returned.

''In May 1992, ATF executed a search warrant at his home. During the search, Mr. Katona said his car's tires were flattened, his firearms were intentionally damaged and his pregnant wife was manhandled so roughly that she had a miscarriage.

''In September, he was charged with 19 felonies * * * When the case went to trial in April 1994, U.S. District Judge George W. White directed a verdict of not guilty—asking on the record, 'Where's the beef?' ''

In a case which is widely known among the gun community, but which has been ignored by the national press, except for the Washington Times, the home of gun show promoters Harry and Theresa Lamplugh was raided by BATF in 1994. At least fifteen BATF agents, armed with machine guns, burst into Lamplugh's home one morning. Mr. Lamplugh asked the men, most of whom were not wearing uniforms, if they had a warrant. ''Shut the fxxxx up mother fxxxer; do you want more trouble than you already have?'' they responded, sticking a machine gun in his face.

Over the next six and half hours, BATF agents demolished the home, refused to let the Lamplughs get dressed, held a pizza party, killed three house cats (including a Manx kitten which was stomped to death), scattered Mr. Lamplugh's cancer pills all over the floor, and carted off over eighteen thousand dollars worth of the Lamplugh's property, plus their medical records. Nearly a year later, the government has neither filed any criminal charges, nor returned any property, even the medical records.

The first of BATF's notorious raids came on June 7, 1971, when agents broke into the home of Kenyon Ballew. A burglar had told the police that Ballew owned grenades. Ballew did own empty grenade hulls, which are entirely legal and unregulated. Wearing ski masks and displaying no identification, BATF agents broke down Ballew's door with a battering ram. Responding to his wife's screams, Ballew took out an antique blackpowder pistol, and was promptly shot by BATF. Nothing illegal was found. He remains confined to a wheelchair as a result of the shooting, and now subsists on welfare.

If the sear (the catch that holds the hammer at cock) on a semiautomatic rifle wears out, the rifle may malfunction and repeat fire. The BATF arrested and prosecuted a smalltown Tennessee police chief for possession of an automatic weapon (actually a semiautomatic with a worn-out sear), even though the BATF conceded that the police chief had not deliberately altered the weapon. In March and April of 1988, BATF pressed similar charges for a worn-out sear against a Pennsylvania state police sergeant. After a 12-day trial, the federal district judge directed a verdict of not guilty and called the prosecution ''a severe miscarriage of justice.''

Today, observes Robert E. Sanders, a former head of BATF's criminal division, the bureau's leaders, to the great dismay of many high-quality field agents, have ''shifted from the criminal to the gun,'' and are now waging ''an all-out war against the gun.'' Sanders noted that ''Instead of focusing on selected criminals, there is an indiscriminate focus on anyone who owns guns. They are in total consonance with the Clinton administration's anti-gun position and with the gun control groups.''

BATF's management has consistently proven itself unwilling to obey statutory law. The Firearm Owners' Protection Act specifically forbids BATF to gather registration information about guns to gun owners, except in connection with a criminal investigation. Nevertheless, BATF is implementing ''Project Forward Trace'' to register the owners of certain legal semiautomatic firearms.

The Treasury Department defends the Waco attack on the basis that ''the raid fit within an historic, well-established and well-defended government interest in prohibiting and breaking up all organized groups that sought to arm or defend themselves.'' The candid admission of BATF's objective, however, conflicts with the fact that nothing in existing law makes it illegal for persons, alone or in groups, to collect large number of weapons and to defend themselves. To the contrary, the ownership of large numbers of weapons is specifically protected by federal statute, by federal case law, and of course by the Second Amendment.

One approach to improving BATF's conduct would be incremental reforms of the statutes governing BATF. Such an approach was attempted by the Firearm Owners' Protection Act, signed into law in 1986. The 1986 reforms, pushed by the National Rifle Association and other pro-gun organizations, reduced BATF search authority, especially for paperwork technicalities, and increased penalties for armed career criminals. Yet even today, the armed career criminal statutes are often enforced in a manner targeting small-scale, unarmed offenders.

The Bureau of Alcohol, Tobacco and Firearms (a descendant of the Bureau of Prohibition) enforces the federal alcohol laws in a manner also characterized by administrative abuse, over-reaching beyond statutory power, and selective enforcement against persons or companies who dare to criticize BATF.

Nor are people outside of BATF the only victims. Planning for the BATF raid on the Mount Carmel Center in Waco began shortly after the Bureau found out that Sixty Minutes was working on a story about sexual harassment at BATF. Months later, Sixty Minutes host Mike Wallace opined ''Almost all the agents we talked to said that they believe the initial attack on that cult in Waco was a publicity stunt—the main goal of which was to improve AFT's tarnished image.'' (The codeword for the beginning of the BATF raid was ''showtime.'')

The Sixty Minutes report was devastating. BATF agent Michelle Roberts told the television program that after she and some male agents finished a surveillance in a parking lot, ''I was held against the hood of my car and had my clothes ripped at by two other agents.'' Agent Roberts claimed she was in fear of her life. The agent who verified Ms. Roberts' complaints claims that he was pressured to resign from BATF. Another agent, Sandra Hernandez, said her complaints about sexual harassment were at first ignored by BATF, and she was then demoted to file clerk and transferred to a lower-ranking office. BATF agent Bob Hoffman said ''[T]he people I put in jail have more honor than the top administration in this organization.'' Agent Lou Tomasello said, ''I took an oath. And the thing I find totally abhorrent and disgusting is these higher-level people took that same oath and they violate the basic principles and tenets of the Constitution and the laws and simple ethics and morality.'' Black BATF agents have complained about discrimination in assignments.

Abolishing BATF is no solution, for abolition would leave in place the federal alcohol, tobacco and firearms laws, and transfer their enforcement responsibility to some other agency. It is the very nature of the victimless crimes—such as laws criminalizing the peaceful possession or manufacture of alcohol or firearms—which lead to enforcement abuses. As long as the consensual offense laws remain in the U.S. Code, abusive enforcement is likely, as has been the historical norm since the enactment of such laws. Removing most firearm (and alcohol and tobacco) laws from the federal statutes does not imply that alcohol, tobacco, and firearms should be subject to no legal controls. Rather, the control of those objects can continue to be achieved at the state level, without a redundant layer of federal control and the manifold temptations of federal abuse.

Since 1985, BATF's size has increased 50%, from 2,900 employees to 4,300. In a time of vast budget deficits, simply restoring BATF to its former size might save both taxpayer dollars and taxpayer lives.

While BATF's performance at Waco was disgraceful, two facts should be kept in mind: First, the BATF has a large number of honorable, admirable employees who have quietly gone about their work for years enforcing federal regulations applicable to gun dealers, and enforcing federal laws against possession of guns by persons with felony convictions for violent crime. Misbehavior of some BATF staff (and some BATF leadership) should not be taken as proof that all BATF employees are bad.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, the current United States Code provides emergency authority that is totally adequate to resolve the problems that are raised by the distinguished Senator from Connecticut. I have chatted with him about the fact that I am going to move to table his amendment.

I do so move to table his amendment. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to table amendment No. 1200, offered by the Senator from Connecticut [Mr. LIEBERMAN].

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Texas [Mrs. HUTCHISON], the Senator from Oklahoma [Mr. INHOFE], the Senator from Arizona [Mr. KYL], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Delaware [Mr. ROTH] are necessarily absent.

Mr. FORD. I announce that the Senator from California [Mrs. BOXER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Nebraska [Mr. BRYAN], the Senator from California [Mrs. FEINSTEIN], the Senator from Nebraska [Mr. KERREY], the Senator from Massachusetts [Mr. KERRY], the Senator from Vermont [Mr. LEAHY], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

I also announce that the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Wisconsin [Mr. KOHL], and the Senator from Georgia [Mr. NUNN] are absent because of attending funeral.

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

The result was announced—yeas 52, nays 28, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—52

Abraham	Faircloth	Packwood
Ashcroft	Frist	Pressler
Baucus	Gorton	Reid
Bennett	Grams	Santorum
Bond	Grassley	Sarbanes
Brown	Gregg	Shelby
Burns	Hatch	Simon
Byrd	Hatfield	Simpson
Campbell	Heflin	Smith
Chafee	Jeffords	Snowe
Coats	Kassebaum	Specter
Cochran	Kempthorne	Stevens
Cohen	Lott	Thomas
Coverdell	Lugar	Thompson
Craig	Mack	Thurmond
D'Amato	McConnell	Warner
DeWine	Moseley-Braun	
Dole	Nickles	

NAYS—28

Akaka	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moynihan
Breaux	Harkin	Murray
Bumpers	Hollings	Pell
Conrad	Inouye	Robb
Daschle	Johnston	Rockefeller
Dodd	Kennedy	Wellstone
Dorgan	Lautenberg	
Exon	Levin	

NOT VOTING—20

Boxer	Helms	Leahy
Bradley	Hutchison	McCain
Bryan	Inhofe	Murkowski
Domenici	Kerrey	Nunn
Feingold	Kerry	Pryor
Feinstein	Kohl	Roth
Gramm	Kyl	

So the motion to lay on the table the amendment (No. 1200) was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, has the time expired on the Pastore rule?

The PRESIDING OFFICER. The Senate is still operating under the Pastore rule.

Mr. BYRD. I ask unanimous consent that I may speak out of order for not to exceed 4 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator is recognized to speak out of order for 4 minutes.

Mr. BYRD. I thank the Chair.

MEDIA DOUBLE STANDARD

Mr. BYRD. Mr. President, I address the Senate today with respect to the May 22, 1995, Washington Post style section story by Howard Kurtz. The substance of the article was to highlight the double standard adopted by columnist George Will in criticizing the Clinton administration's decision to add tariffs to Japanese luxury cars.

In lampooning the Clinton White House for taking the tough trade stand with Japan, Mr. Will failed to mention his wife's relationship as a lobbyist for the Japanese automobile industry. According to the article, Mr. Will was quite indignant to think that anyone would suspect his motives. If a Member of Congress or an administration official in a similar situation had taken such a position, you can be sure that the press, including Mr. Will, would have taken him or her to task. Tomes would have been written about the abuse of power and corruption of the system. Efforts would have been made to discredit and to embarrass the individual. This railing would have gone on until either an apology was forthcoming or, in some cases, until a resignation was tendered.

It is exactly this type of lack of an ethical barometer on the part of the media that tips the scales of fairness in reporting. Members of the legislative, executive, and judicial branches must file regular financial reports and must abide by stringent rules of ethics. This is only proper in matters involving the public's trust.

My argument rests with the total lack of parity in the communications industry. There are no comparable ethical standards or rules which govern the media. This is true despite the fact that the levels of power and persuasion are as great or greater with the press than they are with those in public service. Until some effort is made to level the playing field and throw out the bias, the rampant cynicism and distrust on the part of the people will continue. Nothing points more dramatically to the need for change than Mr. Will's arrogance and lack of candor in this instance.

I thank Mr. Kurtz for bringing this matter to the attention of the American public, and I ask unanimous consent that the Washington Post article be printed in the RECORD. I suggest that all Senators who have not read it, do so.

I yield the floor.

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

[From the Washington Post, May 23, 1995]

A CONFLICT OF WILL'S?—PUNDIT KEPT QUIET ABOUT WIFE'S ROLE AS LOBBYIST

(By Howard Kurtz)

In his syndicated column Friday, George F. Will assailed the Clinton administration's proposed tariffs on Japanese luxury cars, calling them ''trade-annihilating tariffs to coerce another government into coercing its automobile industry.''

He repeated his criticism Sunday on ABC's ''This Week With David Brinkley,'' calling the 100 percent tariffs ''illegal'' and ''a subsidy for Mercedes dealerships.''

What Will did not mention is that his wife, Mari Maseng Will, is a registered foreign agent for the Japan Automobile Manufacturers Association. Her firm, Maseng Communications, was paid $198,721 last year to lobby for the industry.

Will dismissed any suggestion of a conflict. ''I was for free trade long before I met my wife. End of discussion,'' he said yesterday. ''There are people in Washington whose entire life consists of raising questions. To me, it's beyond boring. I don't understand the whole mentality.

''What's to disclose? What would I say? That one of my wife's clients agrees with my long-standing views on free trade? Good God,'' he said.

But several newspaper editors said Will should have disclosed his wife's paid lobbying. ''I'm very distressed,'' said Dennis A. Britton, editor of the Chicago Sun-Times. ''That's one of those material facts an editor should know before placing a story in the paper. That's like a financial writer having a stake in a company he's writing about.''

Will did disclose on the Brinkley show last month that his wife was advising Sen. Robert J. Dole (R-Kan.) in his presidential campaign and would become the campaign's communications director. Will, who mentioned this before questioning Dole, said he did so only ''because ABC asked me to.'' He said his wife's role would not inhibit him in commenting on the Dole campaign.

Will is probably the nation's most prominent conservative writer. He appears on the Brinkley show, opines in Newsweek and writes a newspaper column that is syndicated to 475 papers by The Washington Post Writers Group. Maseng served as White House communications director and assistant secretary of transportation during the Reagan administration. The two were married in 1991.

The Washington Post was initially told of Maseng's lobbying by a Clinton administration staffer. The administration has been trying to deflect criticism that the tariffs would hurt American consumers and some car dealers. Will wrote that the 13 models of Japanese cars would be ''unsalable in the land of the free and the home of the brave.''

According to Maseng's Justice Department filings, her firm is paid $200 an hour to deal with reporters, follow legislation, place advertising, issue press releases and draft op-ed pieces with such titles as ''Selling Cars in Japan: It Isn't About Access'' and ''Fixing the Outcome of Trade With Japan Is a Dangerous Way to Do Business.'' The firm also sought to arrange for the industry's top Washington lobbyist to meet the Chicago Tribune editorial board, tried to place an opinion piece in the Washington Times and drafted letters to the New York Times and Detroit Free Press.

Maseng Communications began representing the Japanese in 1992 and was paid $47,422 the following year. Maseng did not respond to a request for comment.

''What Maseng provides is the strategic public affairs direction for the communications program,'' said Charles Powers, a senior vice president at Porter/Novelli, another Washington public relations firm that works for the automakers in partnership with Maseng's company.

Stephen Isaacs, associate dean of Columbia University's journalism school, said a spouse's employment ''does matter. The same kind of conflict questions that apply to us also apply to our extended families. He made a mistake. . . . The fact that he doesn't see a problem shows he just doesn't get it.''

Isaacs also cited a 1980 incident in which Will helped Ronald Reagan prepare for a presidential campaign debate and then praised Reagan's performance on television without disclosing his own role.

As for last week's column, some editorial page editors also expressed concern. ''I would have preferred to have known in advance,'' said Brent Larkin, editorial director of the Cleveland Plain Dealer.

Dorrance Smith, executive producer of ''This Week With David Brinkley,'' said he was not aware of the connection. He said he had urged Will to disclose his wife's employment with Dole, but that a round-table discussion is ''a different context'' from interviewing a senator.

''I'm not sure where you draw the line,'' Smith said. ''I don't know who Cokie Roberts's brother's clients are.'' Roberts, another Brinkley panelist, is the sister of Washington lobbyist Tommy Boggs.

Alan Shearer, general manager of The Washington Post Writers Group, said he saw no evidence that Maseng's employment ''has affected George's judgment. . . . A lot of us have spouses who have careers of their own, and whether that requires us to disclose everything they do is a difficult question. It doesn't bother me.''

Will, for his part, doesn't see what the fuss is about. He says he has never discussed the issue with his wife.

''My views on free trade are well known and antecedent to Mari's involvement with whatever the client is,'' Will said. ''It's just too silly.''

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

COMPREHENSIVE TERRORISM PREVENTION ACT

The Senate continued with the consideration of the bill.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, it seems rather obvious we are not going to be able to complete action on the antiterrorism bill, S. 735. I have been notified that there are at least probably 60 or more amendments to a bill that we thought the President requested and that we wanted to cooperate with the President to try to get to him, as I indicated, before the Memorial Day recess.

But, in view of the 50-some votes we had on the budget, we lost a day, and in view of the list of amendments, even though there may be a number of amendments which may not be offered, it is now very clear that we cannot complete action on this bill today. I think the next best thing is to try to get some agreement to at least limit the number of amendments.

I do not know how you can have many more than 60, but I assume staff listening in could probably get it up to 90 in 20 minutes if they really tried.

But I would just say to the President and particularly the people of Oklahoma, those who have suffered the tragedy, that we are serious about this legislation. I am not certain whether we can finish on the Monday we are back. I do not want to delay telecommunications. We have promised and promised both Senator PRESSLER and Senator HOLLINGS we would address that very important issue. So I will have to decide what course of action to pursue.

I know the House has not acted on this, so even if we did complete action today, we could not get the bill to the President until after the Memorial Day recess.

And having discussed this with the Democratic leader, I think many of these amendments on both lists are just—there are some that say ''relevant.'' We do not have any idea what it is or even what it is relevant to. But it is relevant as far as not being able to finish the bill if everybody intends to offer their amendments. One Member has 10 amendments; another on our side has 7, or whatever.

So I am going to ask consent that we enter into some agreement that we limit the number of amendments to those that have been identified, if that is satisfactory with the Democratic leader.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, like the majority leader, I also would like to be able to accommodate the schedule to move this legislation as quickly as we can. We need to send a clear message, not only to the people of Oklahoma, but others as well, that this is important.

As the majority leader knows, we just received a copy of the draft last night. As I understand it, it has not yet been printed in the RECORD. We will be taking a closer look at it.

I think, in spite of the fact that there may be some questions relating to the draft itself, we would be willing to enter into an agreement on the list of amendments so we can work through them. There are a lot of amendments there that may or may not be offered, but I think it does protect Senators since they have not had the opportunity to look at it more carefully. Certainly, over the course of the next several days, everyone will do that. But we want to expedite our progress on this and, hopefully, in the not-too-distant future, we can resolve what outstanding differences remain and come to a point where we can vote on final passage.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, I hope we can obtain a consent agreement and the managers of the bill can stay here. There may be amendments on each side that can be taken, indicating we are making an effort to move forward, even though we have only had one vote

today and opening statements yesterday. That, I think, will be helpful if we can take a few minutes on each side.

I ask unanimous consent that the following amendments be the only first-degree amendments in order; that they be subject to relevant second degrees after a failed motion to table, with the exception of the amendments described only as ''relevant,'' and they be subject to relevant second degrees prior to any motion to table; and that the amendments be limited to the following time agreements where designated, to be equally divided in the usual form.

I just suggest, if there is no objection, I understand they are working on a final draft of amendments on that side. I think we have a final draft. I will not read each of the amendments and the sponsors, but I ask unanimous consent that the amendments on the Democratic list be printed in the RECORD, as well as those on the Republican list.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object, and I shall not, but in the spirit of trying to help the two leaders, especially on this type of legislation, obviously with the rights of every Senator that are well known and abound and are used more than infrequently, on legislation like this I think it possibly would be wise to at least consider a set number of amendments and then seek a unanimous-consent agreement that the Republican leader and the Democratic leader—depending on how many they want—would ask to be the final authority on what amendments and in what order are offered on something I think as critically important as this piece of legislation.

If we had not had the 50-hour time limit on the budget resolution, obviously we would have been here this weekend and through next Wednesday. I was one who had to wrestle with it.

I guess somewhere along the line we have to appeal to all the Members with the idea of moving things—not in all cases—but in cases like this, maybe we could have some kind of appeal to have the leaders say how many amendments will be called up and in what order and the others would not be in order.

Mr. DOLE. I thank the Senator from Nebraska. I hope we will be able to do that indirectly, maybe working with the managers. I think many of these amendments will not be called up. Many are acceptable, many are improvements on the bill. Some are going to be debated.

I do not see any partisan effort on this legislation. I think it is a question of trying to find how do we get a good bill, how do we protect constitutional rights down the road. I am hopeful we can do that rather quickly once we get all these in a net here. I can see they are growing as we speak, and as fast as they can write, amendments are being added to the list. So I hope quickly we can stop the bleeding.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. BIDEN. Mr. President, if the Republican leader will yield for a moment, reserving the right to object. I am confident the reason why the list is growing is because no one has seen the bill. It has not been printed in the RECORD. There have been several of us who have seen the bill. Our colleagues have not seen the bill. Their staffs have not seen the bill.

So I am absolutely confident that a significant portion of the amendments that are being added are being added in the blind. They just want to make sure that the bill does not do what it is rumored to do in the press.

I think this is one of those cases where we should not spend a whole lot more time trying to narrow it. If we can get a list now, great, do it, but I am confident that the Senator from Utah and I, over the period of the remainder of the day and during the recess, will be able to go a long way to narrowing down that list as our colleagues get a chance and their staffs get a chance to read this bill, which is not in the RECORD yet.

We always spend time weighing bills around here. This is a 150-page bill that no one has seen other than me, and I have not read it yet. I got it at 6 o'clock last night. I am not being critical of anyone, but that is just by way of explanation.

I do not think amendments being added are added for any other reason than to protect some issue Members are concerned about in this legislation.

I beg your pardon, it is in the RECORD. I stand corrected, it is in the RECORD as of last night. Based on the last vote, 15 to 20 people are gone. That is the only point I make. I am sure we can work that through.

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

The list of the amendments is as follows:

AMENDMENTS TO TERRORISM BILL

REPUBLICAN AMENDMENTS

Kyl: Habeas corpus.
Hatch: Technical.
Gramm:
(1) Sentencing
(2) Relevant
Abraham: Alien terrorist removal.
Pressler: Federal building.
Pressler: False identification of documents.
Smith: Technical.
Craig: Relevant.
Craig: Relevant.
Craig: Mandatory minimums.
Brown: Sanctions on terrorist countries.
Brown: Relevant.
Specter: Secret proceedings/deportation.
Specter: Attorney generals classification of terrorist organizations.
Specter: Wiretap.
Specter: Habeas corpus exhaustion of remedies.
Specter: Habeas corpus/full and fair determination.
Specter: Habeas corpus.
Specter: Relevant.
Dole: Relevant.
Dole: Relevant.
Coverdell: I.D. cards.
Helms: International terrorism.
Helms: International terrorism.
Helms: International terrorism.
Hatch: Relevant.
Hatch: Relevant.
Cohen: Posse comitatus.
Ashcroft: Citizen rights.
Kempthouse: Relevant.
Warner: Relevant.

DEMOCRATIC AMENDMENTS

Biden:
1. Habeas corpus.
2. Habeas corpus.
3. Relevant.
4. Relevant.
5. Technical.
6. Firearms enforcement.
7. Foreign sovereign immunity.
8. Aliens.
Boxer:
1. Criminal proceedings.
2. Para-military activities.
Bradley: Cop killer bullets.
Bryan:
1. Immigration.
2. Immigration.
Daschle:
1. Relevant.
2. Relevant.
Feingold:
1. Relevant.
2. Relevant.
Feinstein:
1. Relevant.
2. Relevant.
3. Taggants.
4. Distribution bomb making materials.
Glenn: Relevant.
Graham: Habeas corpus.
Harkin:
1. Relevant.
2. Relevant.
3. Relevant.
4. Relevant.
Heflin:
1. Relevant.
2. ATF study w/Shelby.
Hollings: Funds telephony.
Kennedy:
1. Immigration/use secret evidence.
2. Immigration/use secret evidence.
3. Crime: multiple gun purchase.
4. Crime: assist local law enforcement.
5. Immigration/judicial review deportation.
6. Habeas corpus.
Kerrey: Funds for ATF/Secret Service.
Kerry:
1. Relevant.
2. Relevant.
Kohl: Gun free school zone.
Lautenberg:
1. Civilian marksmanship.
2. Felon-gun-explosive purchasing.
3. Relevant.
Leahy:
1. Crime victims.
2. Digital telephony.
3. Relevant.
4. Foreign policy.
Levin:
1. Relevant.
2. Relevant.
3. Relevant.
4. Relevant.
5. Relevant.
Lieberman: Wiretap.
Moynihan: Ammunition regulation.
Nunn:
1. Military assistance.
2. Military assistance.
3. Lying to federal officials.
Simon:
1. Gun dealers.
2. Fundraising.

3. Secret evidence.
4. Relevant.
5. Relevant.
6. Relevant.
7. Relevant.
8. Relevant.
Wellstone:
1. Relevant.
2. Relevant.

Mr. DOLE. Mr. President, let me indicate, I think I count 89 or 90 amendments—they went up 30 as I was getting ready here. Obviously, they will not all be offered. If they will, I just will not bring the bill back up again.

I further ask unanimous consent that no assault weapons amendments be in order to the terrorism bill, and that following the disposition of the above-listed amendments, the Hatch substitute be agreed to. That is as far as we can go, I think, at this point.

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

Mr. DOLE. I thank my friend, the Democratic leader, and the manager of the bill. I hope maybe in the course of the next hour or two, they may be able to dispose of 30 or 40 of these amendments.

Mr. BIDEN. Fifty or sixty, Mr. President, I am sure we could, if we work extra hard.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I ask the majority leader if he can give us some indication as to the schedule for the remainder of the day and perhaps on Monday when we return.

ORDER OF BUSINESS

Mr. DOLE. There will be no more votes today, and on Monday, June 5, I suggest, I hope there will be votes, but any votes ordered not occur prior to 5 p.m., so some Members coming from a distance will be able to be here if they leave their homes early Monday morning.

At that point—and I will advise the Democratic leader hopefully this afternoon—maybe we will move to the telecommunications bill or stay on this bill, and much will depend on whether or not the managers believe we can finish this bill rather quickly, say, by Tuesday afternoon. Then we can still go on the telecommunications bill for the remainder of the week.

Mr. DASCHLE. I thank the majority leader.

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

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

Mr. DOLE. Mr. President, I think we have just concluded that it would be a better procedure if we would give the managers, starting today, an opportunity to go through these amendments. Some they may be prepared to take, but they have not been fully reviewed; some have not been fully drafted, but they have the concept. We have to see the exact language.

The leadership of both sides suggest that we start that process today and, in the meantime, I am going to suggest that we now have a period for the transaction of routine morning business, with Senators permitted to speak for not more than 5 minutes each.

Mr. HATCH. Before the leader does that, I want to say I think the majority leader is right. We are going to get our staffs together and sift through the amendments and see which ones we can agree on and dispose of quickly. Hopefully, we will get that done.

Mr. BURNS. Mr. President, ''Justice delayed is justice denied,'' so writes Montana State Senator Ethel Harding of Polson. On January 21, 1974, Senator Harding's daughter, Lana, was brutally murdered. It was not until just 2 weeks ago, over 21 years later, that justice was finally carried out and Lana's murderer was executed by the State of Montana.

This tragedy has haunted Senator Harding and her family for far too many years. The unfortunate thing is that the Harding family is not alone.

And so it is encouraging to see the Senate act upon true habeas corpus reform as part of the overall Comprehensive Terrorism Prevention Act of 1995.

I cannot agree with some of my colleagues who would suggest that habeas corpus reform should not be a part of this legislation. No one, including the families of the 167 innocent people killed in the Oklahoma City bombing, should have to wait as long as the Harding family to see that justice is carried out.

Habeas corpus reform is long overdue in my opinion and the quicker we can bring about change in this area of the law the better. I appreciate the efforts of Montana's attorney general, Joe Mazurek, who along with 11 other attorneys general from around the country wrote to the President in support of habeas corpus reform. This is not a partisan issue and should not get bogged down in partisan politics.

In addition, I am encouraged that Senators DOLE and HATCH have taken great pains to ensure that this legislation reaffirms our longstanding commitment to constitutional protections, and that any provision of the act which is held unconstitutional, will be severed from the act and will not affect the remaining provisions.

I am also pleased to see that we have not weakened the prohibition on the use of the U.S. Armed Forces for domestic police purposes and that we have not expanded the authority of roving wiretaps by removing the requirement of intent.

In the wake of this great national tragedy, it is critical that we unite behind our law enforcement personnel. From the local, to the State, to the Federal authorities, law enforcement and public service personnel should be commended for the fine work they have done thus far.

At the same time, it is important that we do not overreact out of fear or heightened emotions. In Montana, we continue to have situations in which individuals feel threatened by an imposing, uncaring, and overwhelming Federal Government and bureaucracy. As a result, some individuals have been driven to illegal acts such as a variety of Federal and felony charges, including gun violations, threatening and impersonating public officials, and tax evasion.

Such actions cannot be condoned for we are a civilized nation of laws. The Montana law enforcement community has responded cautiously but appropriately to these situations. They have taken a nonconfrontational approach, responding swiftly and firmly to any activities that have resulted in a violation of the law. And they have done so without jeopardizing human lives.

If we can help our local law enforcement community detect and prevent future violations of the law by providing our law enforcement community with the resources to effectively carry out their responsibilities, we should do so. This legislation is a reasoned, balanced approach in that regard.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that we now have a period for the transaction of morning business, with Senators permitted to speak for 5 minutes each.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, May 25, the Federal debt stood at $4,891,247,403,074.28. On a per capita basis, every man, woman, and child in America owes $18,567.26 as his or her share of that debt.

EXPLANATION OF ABSENCE

Mr. FORD. Mr. President, the Senator from Wisconsin [Mr. FEINGOLD] has asked me to inform his colleagues that he is necessarily absent today in order to attend the funeral of former Secretary of Defense, Les Aspin, who represented the State of Wisconsin for 22 years. The funeral is taking place today in the Gesu Chapel at Marquette University where Secretary Aspin taught before his election to Congress. Some 20 current and former Members of the House and Senate are expected to attend the services along with Vice President GORE.

THE NATIONAL RIFLE ASSOCIATION

Mr. CAMPBELL. Mr. President, I rise today to speak briefly on a matter that has caused me great personal concern and that has rapidly been allowed to escalate into another tragic example of political class warfare in the United States.

I am speaking of the overzealous and counterproductive rhetoric of extremists and extremism. Most recently, the National Rifle Association has provided an example of the worst in political debate.

At this time, Mr. President, I include a letter I recently received from Mr. Jack Sands, of Waldorf, MD. Mr. Sands is typical of many former NRA members who have seen its leadership become more violent in its rhetoric over the years. Addressing his letter to Wayne R. LaPierre, he states:

> I hereby resign as a life member of the NRA. Enclosed is my membership card dated 1973. Please remove my name from all mailing lists. I have chosen today to take this action, since this is Peace Officers Memorial Day when we pay tribute to the nearly 14,000 American law enforcement officers who died in the line of duty. As a retired Federal officer, I no longer wish to be affiliated with the NRA.
>
> Sincerely,
>
> *Jack M. Sands.*

I commend the national leadership for its courage in apologizing for its most recent example of political hatred. The comments circulated by the NRA were both offensive and irresponsible. I commend them for their apology, but I condemn them, Mr. President, for not having the good sense to exercise responsible restraint in the first place.

There is a popular ad campaign that says ''I'm the NRA,'' and we are shown a normal, everyday, person. The message from that ad is that the NRA is just a rank-and-file, next-door-neighbor organization.

Well, Mr. President, there are two NRA's. There is the leadership of the NRA and there is the rank and file reflected in this memo sent to several Members. This is their way of lobbying Congress. It is a picture of a gun-toting person speaking about ''jack-booted BATF thugs.''

Mr. President, I was in the NRA but I quit a year ago. So did some of our friends and colleagues like Congressman BREWSTER who dropped off the board, and Congressmen JOHN DINGELL and Tom Foley. Just like former President George Bush.

It is time for the rank and file membership of the NRA to take back their association. Otherwise, Mr. President, they will be tarred with the same brush as those few, but vocal, zealots who have initiated this most destructive campaign of hatred, innuendo, fear, animosity, and intimidation which are the NRA leadership's favorite tools for lobbying elected officials.

Those who preach hatred and disrespect for the law bear some responsibility if their message of hatred contributes to lawless acts of others. Likewise, those in the Government who act with arrogance or disrespect for the rights of our law abiding citizens—regardless of the political or social beliefs of the citizens—will bear some responsibility if their official behavior contributes to an atmosphere of distrust and animosity toward the Government.

There is no excuse to justify vigilante-ism or open lawlessness. It is absolutely inexcusable and irresponsible for a national organization—such as the NRA—which claims it speaks for a great number of our constituents—to openly promote lawlessness or disrespect for our law enforcement personnel.

That is precisely what our system of government was created to avoid. Political debate, discussion, recall, referendum, and involvement is how we keep our Government responsive to the needs of the people in the traditional and acceptable way.

I can tell you, Mr. President, that I also resigned my membership from the NRA. I did that over a year ago because some of its fanatical members actually made threats against me and my staff if I did not vote their way. I will not lend my name to an organization which appears to cater to that kind of violent behavior.

I can also tell you, Mr. President, that views of the beltway NRA is not reflective of the majority of its members' attitudes. Certainly not the Coloradans who have been such dedicated and generous members.

Those NRA members would, I am certain, join me in condemning the irresponsible behavior of earlier this month.

I am personally highly offended that there is now a trend to politicize the tragedy in Oklahoma City. That was a heinous, terrible, criminal act. These responsible deserve nothing more than due process of law and total, complete, scorn from society. That was contemptible and it was barbarism.

It is almost equally contemptible to use that tragedy to further a political agenda. It does not matter what the agenda is, whether additional forms of gun control or whether it is an agenda of anti-governmentalism. To use that tragedy for political or personal advantage cheapens the lives of the innocent victims and it cheapens the rights protected by our Constitution.

The NRA is not the only national organization to use lies, hate, fear, or intimidation to generate contributions and to influence public policy. This is a phenomenon that has become quite popular among many groups who wish to influence national policy despite representing small, minority, views on a given issue.

However, I can think of no other organization in our history which has advocated acts of outright violence against the Government or law enforcement. That was a new low and I am relieved—somewhat—that the NRA has at least apologized. Let's have no more.

The NRA held its national convention this week. To the NRA membership in Colorado and the Nation, I say: Take back your association before it is destroyed—before it destroys itself—from within.

RICHARD P. BUCKLEY—OUTSTANDING EDUCATOR FROM BROCKTON, MA

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to Richard P. Buckley of Brockton, MA, for his 35 years of outstanding service to education in Massachusetts.

Richard Buckley is retiring this year as title I coordinator in the Brockton Public Schools, a position he has held with great distinction since 1969. The Federal title I program that he administers provides vital support for improving the reading and mathematics skills of Brockton's disadvantaged students. He has also taught at the elementary, junior high, and high school levels, and as served as an elementary school assistant principal.

In addition to his duties in Brockton, Richard Buckley is also a member of the Massachusetts Chapter 1 Director's Advisory Council and the Massachusetts Department of Education Committee of Practitioners. He is an executive board member and two-time past president of the Council of Administrators of Compensatory Education.

Richard Buckley also served in the U.S. Army for many years. A graduate of the U.S. Army Command and General Staff School, he was Commander of the Boston Army Reserve Center and is now a retired colonel of the Army Reserve.

Throughout this extraordinary career, Richard Buckley has been a strong leader for high quality education for the students of Brockton. On the occasion of his retirement, I commend him for his remarkable service to his community and our country.

S. 768—ENDANGERED SPECIES ACT REFORM AMENDMENTS

Mr. CRAIG. Mr. President, today, I rise to support S. 768, the Endangered Species Act Reform Amendments of 1995.

I wish to compliment Senator GORTON and Senator JOHNSTON on the thought and effort which has obviously gone into the crafting of this legislation.

Reform of the Endangered Species Act is way overdue, and I am very pleased that the Congress is finally addressing this issue in a substantive way. Field hearings on ESA reform will be underway next week under the guidance of my colleague from Idaho, Senator DIRK KEMPTHORNE, who chairs the subcommittee of jurisdiction within the Environment and Public Works Committee. I will be joining DIRK in

Lewiston, ID, on June 3 for the ESA hearing there.

I want to be counted as one who recognizes the value of our fish and wildlife. I have repeatedly said that I cannot support outright repeal of the Endangered Species Act, as many have urged. But the act needs substantial revision if it is to be brought back in balance with the economic well-being of this country and with the needs of its citizens. Far beyond its original intent, the act has been made a bludgeon to suppression legitimate use of public lands and to threaten private landowners and communities.

Nowhere is that fact more obvious than in my State of Idaho. Earlier this year, an Endangered Species Act Lawsuit brought by two preservation groups resulted in a perverse opinion which threatened to shut down all economic activity on 14 million acres in Idaho.

Mr. President, that is an area the size of Rhode Island, Connecticut, Massachusetts and New Hampshire combined. If the courts can find reason under the existing law to render such a devastating opinion as was done in this case, then it is imperative that Congress correct the obvious flaws in the law.

As chair of the two subcommittees in the Senate with jurisdiction over forest policy, I have embarked on a series of hearings to understand and correct the myriad of conflicting laws and regulations which have strangled the practice of good forestry in this country. The practice of forestry is at a standstill on our western public lands, and the primary culprit is the Endangered Species Act. The forests are ruled by the Endangered Species Act, not the Forest Service or the Bureau of Land Management, and that is a reality which must be changed.

Senator GORTON's bill provides many of the needed changes. It includes language which Senator KEMPTHORNE and I introduced as S. 455 earlier this year to prevent a repeat of the court opinion I have already described. it would streamline the section 7 consultation process, which has proven to be unworkable in our experience with threatened and endangered salmon. It brings cost-consciousness, state rights and private landowners back into the equation for conservation of species.

I am pleased to be a cosponsor of S. 768. I have told Senator GORTON that I will assist him in any way possible to accomplish a balanced reform of the ESA. It must be done this year—we have waited too long already. I hope our colleagues will join us in this effort.

TRIBUTE TO KRESIMIR COSIC

Mr. HATCH. Mr. President, I stand today to honor the life of Kresimir Cosic, a Croatian patriot and an adopted son of Utah, who died yesterday morning after a long illness. On behalf of Utahns he inspired and charmed for over a quarter-century, I wish to extend our deepest condolences to his wife and children.

When he died, Kresimir Cosic was the Republic of Croatia's Deputy Ambassador to the United States, a position in which he played an invaluable role. But sports fans in this country and around the world would know him more for his brilliant career in basketball—a career that spanned nearly two decades and brought him to the Olympics four times.

His close ties to our country began nearly 30 years ago, when the coaches at Brigham Young University, who had seen the young Croat from Zadar lead his team from the former Yugoslavia to claim the silver medal in the 1968 Olympics, invited him to play for the BYU team. Kresimir Cosic's decision to accept was, in one way, his first contribution in diplomacy: He would become the first foreign basketball player to win All-American honors, which he did in 1972 and 1973.

At BYU, he endeared himself to Utahns by his brilliant sportsmanship and his personal decency. As a great center he dazzled us all, dribbling behind his back, putting up an amazing defense, and breaking the record of all-time high scorer and rebounder. Off the court, he shared our faith and warmed our homes. In all the years I have known him, including the last year when he was personally suffering a great deal, I never saw him without a smile.

After his 4 years, he was drafted by the L.A. Lakers and the Carolina Cougars, but he chose to return home. Fans of world basketball saw him win most-valued-player honors in the former Yugoslavia, on All-European teams, and in the Olympics, where in Montreal in 1976 his team won the silver medal and in Moscow in 1980 his team beat the Soviets to win the gold.

Kresimir was a Croatian patriot, who dedicated the last part of his life to the rebirth of Croatia's independence, and to building strong relations between his country and ours. The most brilliant sports men and women combine extraordinary skill, a sophisticated sense of strategy, and spirit. I suggest that these are the attributes that also make good diplomats, for Kresimir was one of the best.

Since 1991, Kresimir was one of my wisest counsels on the crisis in the Balkans. Always with optimism, he would outline the regional complexities with a shrewd notion of strategy that effortlessly combined historical sense with the ability to see three moves down the court. In a world where so much foreign policy is merely reactive, Kresimir always counseled on how to anticipate.

While Croatia suffered attack, he did not despair. His love of country never wavered, and his dedication to a free and democratic Croatia was as strong as his character because it was his character. In Washington, he served his country with great distinction, as a paragon of probity. And always he insisted that Croatia's greatest ally should be the United States. In my experience, no one could embody a greater warmth between two countries than Kresimir Cosic's friendship with Americans.

Kresimir Cosic lived an example of physical discipline, mental focus, and spiritual stamina. He was an inspiration to all who saw him on the court, to all who engaged him in the halls of diplomacy and, above all, to all who had the enriching experience of being his friend. Kresimir Cosic was one of the finest human beings I have ever known. I would like to offer here the deep gratitude of the citizens of Utah for the joy Kresimir gave us from the basketball court, for the faith he shared with us, for the friendship he continued to nurture with us throughout his life, and for the efforts he undertook to strengthen relations between the United States and the Republic of Croatia.

We will miss him.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–136. A resolution adopted by the Board of Commissioners of Ferry County, Washington; to the Committee on Governmental Affairs.

POM–137. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Governmental Affairs.

"LEGISLATIVE RESOLVE NO. 3

"Whereas the Tenth Amendment to the Constitution of the United States states: The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.; and

"Whereas the Tenth Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

"Whereas the scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

"Whereas today, the states are demonstrably treated as agents of the federal government; and

"Whereas many federal mandates are directly in violation of the Tenth Amendment; and

"Whereas The United States Supreme Court has ruled in New York v. United States, 112 S.Ct. 2408 (1992), that the Congress may not simply commandeer the legislative processes of the states; and

"Whereas a number of proposals now pending before the Congress may further violate the Tenth Amendment of the United States Constitution; and

"Whereas numerous resolutions addressing various mandates imposed on the states by federal law have been sent to the federal government by the Alaska State Legislature without any response or result; and

"Whereas the United States Constitution envisions sovereign states and guarantees the states a republican form of government; and

"Whereas Alaska and its municipalities are losing their power to act on behalf of

state citizens as the power of government is moving farther away from the people into the hands of federal agencies composed of officials who are not elected and who are unaware of the needs of Alaska and the other states; and

''Whereas the federal court system affords a means to liberate the states from the grips of federal mandates; Now, therefore, be it

''*Resolved,* That the Alaska State Legislature hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by that constitution; and be it further

''*Resolved,* That this resolution serves as notice and demand to the federal government to cease and desist, effective immediately, imposing mandates on the states that are beyond the scope of its constitutionally delegated powers; and be it further

''*Resolved,* That the Governor is respectfully requested to examine and challenge by legal action on behalf of the state, federal mandates contained in court rulings, federal laws and regulations, or federal practices to the extent those mandates infringe on the sovereignty of Alaska or the state's authority over issues affecting its citizens; and be it further

''*Resolved,* That Alaska's sister states are urged to participate in any legal action brought under this resolution.''

POM–138. A concurrent resolution adopted by the Legislature of the State of Arkansas; to the Committee on Governmental Affairs.

''SENATE CONCURRENT RESOLUTION

''Whereas, the 10th Amendment to the Constitution of the United States reads as follows: 'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.'; and

''Whereas, the 10th Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

''Whereas, the scope of power defined by the 10th Amendment means that the federal government was created by the states specifically to be an agent of the states; and

''Whereas, today the states are demonstrably treated as agents of the federal government; and

''Whereas, numerous resolutions have been forwarded to the federal government by the Arkansas General Assembly without any response or result from Congress or the federal government; and

''Whereas, many federal mandates are directly in violation of the 10th Amendment to the Constitution of the United States; and

''Whereas, the United States Supreme Court has ruled in New York v. United States, 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

''Whereas, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution; Now therefore, be it,

''*Resolved by the Senate of the Eightieth General Assembly of the State of Arkansas, the House of Representatives concurring therein:*

''(1) That the State of Arkansas hereby claims sovereignty under the 10th Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the United States Constitution.

''(2) That this serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers.

''*Be it further resolved,* That copies of this Resolution be sent by the Secretary of the Senate to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the presiding officers of each chamber of the legislatures of the several states, and Arkansas' Congressional Delegation.''

POM–139. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Governmental Affairs.

''HOUSE CONCURRENT RESOLUTION 2015

''Whereas, the Tenth Amendment to the Constitution of the United States reads as follows: ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.''; and

''Whereas, the Tenth Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

''Whereas, today the states are demonstrably treated as agents of the federal government; and

''Whereas, many federal mandates are directly in violation of the Tenth Amendment to the Constitution of the United States; and

''Whereas, the United States Supreme court has ruled in New York v. United States, 112 S. Ct. 2409 (1992) that Congress may not simply commandeer the legislative and regulatory processes of the states; and

''Whereas, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution; Now, therefore, be it

''*Resolved by the House of Representatives of the State of Arizona, the Senate concurring:*

''1. That the State of Arizona hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the United States Constitution.

''2. That this serve as notice and demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers.

''3. That the Secretary of State of the State of Arizona transmit copies of this Concurrent Resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Speaker of the House of Representatives and the President of the Senate of each state's legislature of the United States of America, and the Arizona Congressional delegation.''

POM–140. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Governmental Affairs.

''JOINT RESOLUTION

''Whereas, the Tenth Amendment to the United States Constitution reads as follows: ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.''; and

''Whereas, the Tenth Amendment defines the total scope of federal power as being that power specifically granted by the United States Constitution and no more; and

''Whereas, the scope of power defined by the Tenth Amendment means that the Federal Government was created by the states specifically to be an agent of the states; and

''Whereas, many federal mandates may be in direct violation of the Tenth Amendment to the United States Constitution; and

''Whereas, the United States Supreme Court has ruled in *New York v. United States,* 112 S. Ct. 2408 (1992) that Congress may not simply commandeer the legislative and regulatory processes of the states; and

''Whereas, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution; and

''Whereas, the Congress of the United States has also passed numerous laws that have protected individual freedom and liberty and promoted the general welfare of all Americans, including, but not limited to, the Civil Rights Act and the Voting Rights Act; Now, therefore, be it

''*Resolved,* That we, your Memorialists, on behalf of the people of the State of Maine, claim sovereignty under the Tenth Amendment to the United States Constitution over all powers not otherwise enumerated and granted to the Federal Government by the Constitution; and be it further

''*Resolved,* That this memorial serve as notice and demand to the Federal Government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers; and be it further

''*Resolved,* That nothing in this resolution may be construed to demonstrate lack of support for federal legislation protecting individual freedom and liberty and promoting the general welfare of all Americans, including, but not limited to, the Civil Rights Act and the Voting Rights Act; and be it further

''*Resolved,* That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and the Majority leader of the United States Senate.''

POM–141. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Governmental Affairs.

''HOUSE CONCURRENT RESOLUTION NO. 945

''Whereas, the Tenth Amendment to the Constitution of the United States reads as follows: ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people''; and

''Whereas, the Tenth Amendment defines the total scope of federal power as being the authority specifically granted by the United States constitution and no more; and

''Whereas, the scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

''Whereas, today, in 1994, the states are demonstrably treated as agents of the federal government; and

''Whereas, numerous resolutions have been forwarded to the federal government by the Michigan Legislature without any response or result from Congress or the federal government; and

''Whereas, many federal mandates are directly in violation of the Tenth Amendment to the Constitution of the United States; and

''Whereas, the United States Supreme Court has ruled in *New York* v. *United States* 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

''Whereas, a number of proposals from previous presidential administrations and some now pending from the present administration and from Congress may further violate the United States Constitution; Now, therefore, be it

''*Resolved by the House of Representatives (the Senate concurring),* That the Michigan

Legislature hereby asserts Michigan's sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the United States Constitution; and be it further

''*Resolved,* That we hereby memorialize the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers; and be it further

''*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the presiding officer of the legislative bodies of each of the states and the members of the Michigan congressional delegation.''

POM–142. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Governmental Affairs.

''SENATE JOINT RESOLUTION NO. 1

''Whereas, the 10th Amendment to the Constitution of the United States states that the ''powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people''; and

Whereas, the 10th Amendment confirms that the scope of power of the Federal Government is no more than that which is specifically enumerated and delegated to the Federal Government by the Constitution of the United States; and

''Whereas, the power of the states, as stated in the 10th Amendment, indicates that the Federal Government was created by the several states specifically to act as an agent of the states; and

''Whereas, by requiring the various states to carry out certain federal mandates, the Federal Government is demonstrably treating the states as agents of the Federal Government; and

Whereas, many federal mandates may be in direct violation of the Constitution of the United States, and may, therefore, infringe upon the powers reserved to the states or to the people by the 10th Amendment; and

''Whereas, in the case of *New York* v. *United States,* 112 S.Ct. 2408 (1992), the Supreme Court of the United States stated that the Congress of the United States may not simply commandeer the legislative and regulatory processes of the states, and that Congress exercises its conferred powers subject to the limitations contained in the Constitution; and

''Whereas, numerous proposals from previous presidential administrations and some now proposed by the current presidential administration and Congress may further violate the 10th Amendment and other provisions of the Constitution of the United States; Now, therefore, be it

''*Resolved by the Senate and Assembly of the State of Nevada, jointly,* That the State of Nevada hereby claims sovereignty pursuant to the 10th Amendment to the Constitution of the United States over all powers not otherwise enumerated and delegated to the Federal Government by the Constitution of the United States; and be it further

''*Resolved,* That this resolution serve as a notice and demand to the Federal Government, as the agent of the State of Nevada, to cease and desist immediately the enactment and enforcement of mandates which are beyond the scope of the enumerated powers delegated to the Federal Government by the Constitution of the United States; and be it further

''*Resolved,* That the Secretary of the Senate prepare and transmit a copy of this resolution to the President of the United States, the vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

''*Resolved* That this resolution becomes effective upon passage and approval.''

POM–143. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Governmental Affairs.

''SENATE JOINT RESOLUTION NO. 4

''Whereas, since the mid-1980s, Congress has increasingly shifted the cost of federally mandated programs to the states; and

''Whereas, educational programs mandated by the Federal Government seriously impair the ability of a state to establish the academic, social and nutritional programs that it determines are best suited to the particular educational situation in the state; and

''Whereas, the 10th Amendment to the Constitution of the United States defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

''Whereas, requiring the states to carry out certain educational programs enables Congress to expand its federal power and encroach upon the states' power; now, therefore, be it

''*Resolved by the Senate and Assembly of the State of Nevada, Jointly,* That the Nevada Legislature hereby urges that before Congress adopts legislation which mandates the states to provide particular educational programs, Congress determines the approximate amount of money it will cost the respective states to comply with the mandate; and be it further

''*Resolved,* That the Nevada Legislature hereby urges Congress not to enact any mandate requiring the state to provide educational programs in violation of the scope of the enumerated powers delegated to the Federal Government by the Constitution of the United States; and be it further

''*Resolved,* That copies of this resolution be transmitted forthwith by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

''*Resolved,* That this resolution becomes effective upon passage and approval.''

POM–144. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Governmental Affairs.

''ASSEMBLY JOINT RESOLUTION NO. 9

''Whereas, the Lake Tahoe Basin is an area of significant and often unparalleled scenic, recreational, educational, scientific and natural value for the states of California and Nevada as well as the entire nation; and

''Whereas, the natural beauty of the Lake Tahoe Basin has attracted increasing numbers of visitors and residents to the area in the past 25 years, thereby increasing the amount of traffic congestion and air pollution in the basin; and

''Whereas, the Lake Regional Planning Agency, pursuant to its authority under the provisions of the Tahoe Regional Planning Compact, has created a regional transportation plan which calls for the delivery of mail from door to door in the Lake Tahoe Basin as a means of reducing the total number of miles traveled by vehicles in the basin; and

''Whereas, the Tahoe Regional Planning Agency has similarly created a postal service action plan which also provides for the implementation of a program for the delivery of mail from door to door, as well as other programs such as the delivery of mail to neighborhood cluster boxes; and

''Whereas, although the delivery of mail from door to door has been initiated in certain portions of the Lake Tahoe Basin, delivery throughout the basin would decrease the current total number of miles traveled by vehicles in the basin by an estimated 57,000 miles per day; and

''Whereas, such a reduction in the miles traveled per day by vehicles in the Lake Tahoe Basin would help to reduce the increasing amount of traffic congestion and air pollution in the Lake Tahoe Basin; Now, therefore, be it

''*Resolved By the Senate Assembly of the State of Nevada, Jointly,* That the Legislature of the State of Nevada hereby urges the Congress of the United States and the United States Postal Service to initiate and maintain a program for the delivery of mail from door to door in the Lake Tahoe Basin or other similar programs which would enhance the efficiency of the delivery of mail and assist in the effort to reduce traffic congestion and air pollution in the Lake Tahoe Basin; and be it further

''*Resolved,* That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representative, each member of the Nevada Congressional Delegation and the Postmaster General of the United States Postal Service; and be it further

''*Resolved,* That this resolution becomes effective upon passage and approval.''

POM–145. A concurrent resolution adopted by the Legislature of the State of Oregon; to the Committee on Governmental Affairs.

''SENATE CONCURRENT RESOLUTION 3

''Whereas the Tenth Amendment to the Constitution of the United States reads as follows: ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people''; and

''Whereas the Tenth Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

''Whereas the scope of power defined by the Tenth Amendment means that the Federal Government was created by the states specifically to be an agent of the states; and

''Whereas today, in 1995, the states are in fact treated as agents of the Federal Government; and

''Whereas we declare that all Oregonians, when they form a social compact, are equal in right, that all power is inherent in the people and all free governments are founded on their authority and instituted for their peace, safety and happiness and that they have at all times a right to alter, reform or abolish their government in such manner as they may think proper; and

''Whereas memorials have been forwarded to the Federal Government by the Oregon Legislative Assembly without any response or result from Congress or the Federal Government; and

''Whereas many federal mandates are directly in violation of the Tenth Amendment to the Constitution of the United States; and

''Whereas the United States Supreme Court has ruled in *New York* v. *United States,* 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

''Whereas a number of proposals now pending from the present administration and from the previous Congress would further violate the United States Constitution; Now, therefore, be it

''*Resolved by the Legislative Assembly of the State of Oregon:*

''(1) That the State of Oregon hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all other powers not otherwise enumerated and granted to the Federal Government by the United States Constitution.

''(2) That the Federal Government, as our agent, is hereby instructed to ceases and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated power.

''(3) That a copy of this resolution shall be sent to the President of the United States, the Speaker of the House of Representatives, the President of the Senate of the United States and each house of each state's legislature of the United States of America.''

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs and the Committee on the Judiciary, jointly, with amendments in the nature of a substitute:

S. 343. A bill to reform the regulatory process, and for other purposes (Rept. No. 104–89).

By Mr. ROTH, from the Committee on Governmental Affairs and by Mr. HATCH, from the Committee on the Judiciary, jointly, with amendments in the nature of a substitute:

S. 343. A bill to reform the regulatory process, and for other purposes (Rept. No. 104–89) (Rept. No. 104–90).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 267. A bill to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes (Rept. No. 104–91).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

Henry W. Foster, Jr., of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, for a term of 4 years.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 867. A bill to amend the Internal Revenue Code of 1986 to revise the estate and gift tax in order to preserve American family enterprises, and for other purposes; to the Committee on Finance.

By Mr. STEVENS:

S. 868. A bill to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CHAFEE:

S. 869. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel DRAGONESSA, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATFIELD (for himself and Mr. JEFFORDS):

S. 870. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON (for himself and Mr. MURKOWSKI):

S. 871. A bill to provide for the management and disposition of the Hanford Reservation, to provide for environmental management activities at the Reservation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOND (for himself and Mr. LIEBERMAN):

S. 872. A bill to provide for the establishment of a modernized and simplified health information network for Medicare and Medicaid, and for other purposes; to the Committee on Finance.

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 873. A bill to establish the South Carolina National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAMS (for himself, Ms. MOSELEY-BRAUN, Mr. HARKIN, and Mr. KOHL):

S. 874. A bill to provide for the minting and circulation of one dollar coins, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRESSLER:

S. 875. A bill to amend section 202 of the Federal Property and Administrative Services Act of 1949 to exclude certain property in the State of South Dakota; to the Committee on Environment and Public Works.

By Mr. EXON (for himself and Mr. KERREY):

S. 876. A bill to provide that any payment to a local educational agency by the Department of Defense, that is available to such agency for current expenditures and used for capital expenses, shall not be considered funds available to such agency for purposes of making certain Impact Aid determinations; to the Committee on Labor and Human Resources.

By Mrs. HUTCHISON:

S. 877. A bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requriements of that section; to the Committee on Labor and Human Resources.

By Mr. COCHRAN (for himself, Mr. LOTT, Mr. WARNER, Mr. MCCONNELL, Mr. SANTORUM, Mr. ABRAHAM, Mr. D'AMATO, Mr. BOND, Mr. PRESSLER, Mr. DEWINE, Mr. KYL, Mrs. KASSEBAUM, and Mrs. HUTCHISON):

S. 878. A bill to amend the Internal Revenue Code of 1986 to reduce mandatory premiums to the United Mine Workers of America Combined Benefit Fund by certain surplus amounts in the Fund, and for other purposes; to the Committee on Finance.

By Mr. HATFIELD (for himself and Mr. JEFFORDS):

S. 879. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CHAFEE:

S.J. Res. 35. A joint resolution prohibiting funds for diplomatic relations with Vietnam at the ambassadorial level unless the President certifies to Congress that Vietnam is making a good faith effort to resolve cases involving United States servicemen who remain unaccounted for from the Vietnam War, and for other purposes; to the Committee on Foreign Relations.

By Mr. ASHCROFT (for himself and Mr. BROWN):

S.J. Res. 36. A joint resolution proposing an amendment to the Constitution of the United States to allow the States to limit the period of time United States Senators and Representatives may serve; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN:

S. 867. A bill to amend the Internal Revenue Code of 1986 to revise the estate and gift tax in order to preserve American family enterprises, and for other purposes; to the Committee on Finance.

THE NATIONAL FAMILY ENTERPRISE PRESERVATION ACT OF 1995

● Mr. COCHRAN. Mr. President, today I am introducing the National Family Enterprise Preservation Act of 1995 which will provide estate tax relief to many of our Nation's family owned farms and businesses.

Our current tax laws are forcing many inheritors of family farms and businesses to sell the enterprise in order to pay estate taxes. A family farm or business is not only a productive component of our economy, it is a distinctive part of our American economic system and the personal dream of millions of Americans.

But all this is being threatened by high taxes that are imposed by government when the owner dies.

Small businesses are being forced to merge into large corporations because marketable stock can be acquired tax free and many estate tax problems can be avoided. In 1942, the estate tax affected only 1 estate out of 60. Today, this number has increased to 1 out of 20.

Another consideration is that inflation has pushed the value of many family farms and businesses into the range of estate tax liability. The result has been that heirs of these enterprises often sell their business to pay estate taxes.

Family owned farms and businesses are a vital component of our economy and society and should be preserved. They give families a sense of freedom, accomplishment, and pride in ownership. This is the essence of free enterprise.

Mr. Chairman, earlier this year I had the opportunity to visit with a tree farmer from my State who was recognized this year by the Mississippi Forestry Association as ''Forester of the Year.'' His name is Chester Thigpen, and he is truly a remarkable man.

Chester Thigpen and others like him represent the taxpayers for whom I am introducing this legislation today.

Mr. Thigpen and his wife, Rosett, live in Montrose, MS. When he was a child, he dreamed of owning land. He first brought a small parcel of land in 1940, continued to save and slowly added acreage to his farm. He worked hard to improve his land and that land allowed him to provide for his family and made it possible to put his five children through college.

This land represents a tremendous amount of pride and hard work for Thigpens. They always thought they would be able to leave a legacy for their children as a reward for their hard work and as a symbol of their family's success.

But there is a big problem. The Thigpen's land over the last 50 years has increased considerably in value. The estate tax burden is going to make it nearly impossible for their children to keep the farm when their parents die.

Mr. and Mrs Thigpen and other hard working Americans should not have to sacrifice their lifelong dreams because of unnecessary tax burdens. Their. children should have the same opportunity their parents have had, to use their property to be productive citizens.

The legislation I am introducing will increase from $600,000 to $1 million the value of property that may pass free of Federal estate and gift taxes. In addition, the current annual gift tax exclusion of $10,000 would be increased to $20,000 in the case of gifts to qualified family members of family enterprise property. This legislation will also change special use valuation. Currently, special use valuation cannot reduce the gross estate by more than $750,000. This amount would be increased to $1 million. And finally, this bill will make changes in the family enterprise interest on estates.

Mr. Chairman, I submit an editorial from the March 3, 1995 issue of the Washington Times and a copy of Mr. Thigpen's remarks to the U.S. House Committee on Ways and Means, which I ask a unanimous consent be printed in the RECORD, along with a copy of the bill.

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

S. 867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Family Enterprise Preservation Act of 1995''.

SEC. 2. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDITS FOR FAMILY ENTERPRISES.

(a) ESTATE TAX.—Section 2010 of the Internal Revenue Code of 1986 (relating to unified credit against estate tax) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, by inserting after subsection (a) the following new subsection:

''(b) ADDITIONAL CREDIT FOR FAMILY ENTERPRISES.—The amount of the credit allowable under subsection (a) shall be increased by an amount equal to the value of any family enterprise property included in the decedent's gross estate under section 2040A(a), to the extent such value does not exceed $121,800.''

(b) GIFT TAX.—Section 2505 of the Internal Revenue Code of 1986 (relating to unified credit against gift tax) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) ADDITIONAL CREDIT FOR FAMILY ENTERPRISES.—The amount of the credit allowable under subsection (a) for each calendar year shall be increased by an amount equal to—

''(1) the value of gifts of family enterprise property (as defined in section 2040A(b)(1)), to the extent such value does not exceed $121,800, reduced by

''(2) the sum of the amounts allowable as a credit to the individual under this subsection for all preceding calendar periods.''

(c) EFFECTIVE DATES.—

(1) ESTATE TAX CREDIT.—The amendments made by subsection (a) shall apply to the estates of decedents dying after December 31, 1995.

(2) GIFT TAX CREDIT.—The amendments made by subsection (b) shall apply to gifts made after December 31, 1995.

SEC. 3. INCREASE IN ANNUAL GIFT TAX EXCLUSION.

(a) IN GENERAL.—Section 2503 of the Internal Revenue Code of 1986 (relating to taxable gifts) is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

''(c) ADDITIONAL EXCLUSIONS FROM GIFTS.—The amount of the exclusion allowable under subsection (b) during a calendar year shall be increased by an amount equal to the value of gifts of family enterprise property (as defined in section 2040A(b)(1)) made during such year, to the extent such value does not exceed $10,000.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to gifts made after December 31, 1995.

SEC. 4. FAMILY ENTERPRISE PROPERTY.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 of the Internal Revenue Code of 1986 (relating to gross estate) is amended by inserting after section 2040 the following new section:

''SEC. 2040A. FAMILY ENTERPRISE PROPERTY.

''(a) GENERAL RULE.—The value included in the decedent's gross estate with respect to family enterprise property by reason of this section shall be—

''(1) the value of such property, reduced by

''(2) the lesser of—

''(A) 50 percent of the value of such property, or

''(B) $1,000,000.

''(b) FAMILY ENTERPRISE PROPERTY.—

''(1) IN GENERAL.—For purposes of this section, the term ''family enterprise property'' means any interest in real or personal property which is devoted to use as a farm or used for farming purposes (within the meaning of paragraphs (4) and (5) of section 2032A(e)) or is used in any other trade or business, if at least 80 percent of the ownership interest in such farm or other trade or business is held—

''(A) by 5 or fewer individuals, or

''(B) by individuals who are members of the same family (within the meaning of section 2032A(e)(2)).

''(2) LIMITED PARTNERSHIP INTERESTS EXCLUDED.—An interest in a limited partnership (other than a limited partnership composed solely of individuals described in paragraph (1)(B)) shall in no event be treated as family enterprise property.

''(c) TAX TREATMENT OF DISPOSITIONS AND FAILURE TO USE FOR QUALIFYING USE.—

''(1) IMPOSITION OF ADDITIONAL ESTATE TAX.—With respect to family enterprise property inherited from the decedent, if within 10 years after the decedent's death and before the death of any individual described in subsection (b)(1)—

''(A) such individual disposes of any interest in such property (other than by a disposition to a member of the individual's family), or

''(B) such individual or a member of the individual's family ceases to participate in the active management of such property,

then there is hereby imposed an additional estate tax.

''(2) AMOUNT OF ADDITIONAL TAX.—The amount of the additional tax imposed by paragraph (1) with respect to any interest in family enterprise property shall be the amount equal to the excess of the estate tax liability attributable to such interest (determined without regard to subsection (a)) over the estate tax liability, reduced by 5 percent for each year following the date of the decedent's death in which the individual described in subsection (b)(1) or a member of the individual's family participated in the active management of such family enterprise property.

''(3) ACTIVE MANAGEMENT.—For purposes of this subsection, the term ''active management'' means the making of the management decisions of a business other than the daily operating decisions.

''(d) ADDITIONAL RULES.—For purposes of this section, rules similar to the rules under paragraphs (3), (4), and (5) of section 2032A(c), paragraphs (7), (8), (9), (10), (11), and (12) of section 2032(e), and subsections (f), (g), (h), and (i) of section 2032A shall apply.''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 2040 the following new item:

''Sec. 2040A. Family enterprise property.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1995.

SEC. 5. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.

(a) IN GENERAL.—Section 2032A(a)(2) of the Internal Revenue Code of 1986 (relating to limitation on aggregate reduction in fair market value) is amended by striking ''$750,000'' and inserting ''$1,000,000''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1995.

STATEMENT OF MR. CHESTER THIGPEN BEFORE THE COMMITTEE ON WAYS AND MEANS, FEBRUARY 1, 1995

My name is Chester Thigpen. My wife Rosett and I are Tree Farmers from Montrose, Mississippi.

Mr. Chairman, I appreciate the opportunity to appear before this Committee. You are debating an issue that is very important to more than 7 million people who own most of the nation's productive timberland. Most of us have been at it for a long time. Professor Larry Doolittle of Mississippi State University published a paper in 1992 that suggested half the Tree Farmers in the Mid-South were 62 years old or over. This pattern holds true in other parts of the country as well. So it should come as no surprise to the Committee that, when Tree Farmers gather, one of the things we discuss is estate taxes.

Estate taxes matter not just to lawyers, doctors and businessmen, but to people like Rosett and me. We were both born on land that is now part of our Tree Farm. I can remember plowing behind a mule for my uncle who owned it before me. My dream then was to own land. I bought a little bit in 1940 and inherited some from my family's estate in 1946, and then bought some more. Back when I started, the estate tax applied to only one estate in 60. Today it applies to one in 20—including mine. I wonder if I would be able to achieve my dream if I were starting out today.

Mr. Chairman, you have heard many witnesses talk about the technical details of estate tax reform. They know far more about it than I do. With your permission, I'd like to take a few minutes to talk about what I do know: what estate tax reform will mean in places like Montrose, Mississippi and to Tree Farmers like me and Rosette.

We first got started in forestry in 1960. Much of our land was old cotton and row crop fields, so early on I spent 90 percent of my time trying to keep it from washing away. We developed a management plan and started growing trees. Today, we manage our property for timber, wildlife habitat, water quality and recreation. We have built ponds for erosion control and for wildlife. Deer and turkey have come back, so we invite our neighbors to hunt on our land.

It took us half a century, but Rosett and I have managed to turn our land into a working Tree Farm that has been a source of pride and income for my entire family.

Our Tree Farm made it possible to put our five children through college. It made it possible for Rosette and me to share our love of the outdoors and our commitment to good forestry with our neighbors. And finally, it made it possible for us to leave a legacy that makes me very proud: beautiful forests and ponds that can live on for many, many years after my wife and I pass on. We wanted to leave the land in better condition than when we first started working it. And we will.

We also want to leave the Tree Farm in our family. But no matter how hard I work, that depends on you.

Right now, people tell me my Tree Farm could be worth more than a million dollars. All that value is tied up in land or trees. We're not rich people. My son and I do almost all the work on our land ourselves. So, under current law, my children might have to break up the Tree Farm or sell off timber to pay the estate taxes. I am here today to endorse a proposal called the National Family Enterprise Preservation Act which would totally exempt over 98 percent of all family enterprises, not just Tree Farms, from the Federal estate tax. A copy is attached to my written testimony.

Giving up the Tree Farm we worked fifty years to create would hurt me and my family. I don't think it would be good for the public either. If the Tree Farm had to be sold or the timber cut before its time, what would happen to the erosion control programs we put in place, or the wildlife habitat? Who would make certain that the lands stayed open for our neighbors to visit and enjoy? I know my children would. And I hope their children will have an opportunity after them.

I think too often people focus on just the costs of estate tax reform and not the benefits. In forestry, the benefits will be substantial. I mentioned earlier that most of the 7 million landowners in this country are close to retirement age or, like me, way past it. Without estate tax reform, many of their properties will be broken up into smaller tracks or harvested prematurely. Some may no longer be economical to operate as Tree Farms and will perhaps be converted to other uses or back into marginal agriculture. Other properties may become too small or generate too little cash flow to support the kind of multiple use management we practice on our property. Healthy, growing forests with abundant wildlife provide benefits to everybody. Without estate tax reform, it will become harder and harder for people like me to remain excellent stewards of our family-owned forests.

Mr. Chairman, a few months ago, Rosett and I were named Mississippi's Outstanding Tree Farmers of the Year. It was a great honor to be selected from among the thousands of excellent Tree Farmers in Mississippi. I'm told one reason we were recognized was because Rosett and I have been speaking out on behalf of good forestry for almost four decades.

That's why I made this trip to Washington: to remind the Committee that estate tax reform is important to preserve family enterprises like ours. It is also important for good forestry. We just planted some trees on our property a few months ago. I hope my grandchildren and great-grandchildren will be able to watch those trees grow on the Thigpen Tree Farm—and I know millions of forest landowners feel the same way about their own Tree Farms. We applaud estate tax reforms that will make this possible.

Thank you.

[From the Washington Times, Mar. 13, 1995]

DEATH AND TAXES

There are two certainties in life of which Americans are all too well aware: death and taxes. Less well known is the fact that taxes don't stop with death.

Consider the case of Mississippi resident Chester Thigpen, a man who has painstakingly built a reputation for overachievement during his 83 years. The grandson of slaves, he was born on a farm when cotton was king and grew up dreaming that one day he would own land of his own. He bought a little land in 1940 and slowly added to his holdings, raising trees and children along the way with his wife Rosett.

Today he has 850 acres of farm land to his name, five children with college educations financed from timber harvests there and a roomful of honors for his stewardship of the land and his outreach work on behalf of forestry. Already he is in Mississippi's Agriculture and Forestry Museum's Hall of Fame and this year was named the state's Outstanding Tree Farmer. Such achievements may not mean much in a city like Washington, where productivity is something one measures in red ink. But lawmakers might want to consider where they would be without tree byproducts the next time they try to introduce a bill or send a memo.

There is, however, one thing that the Thigpens don't have, and that is the peace of mind that comes with knowing they can pass on their version of the American dream to their children. The federal estate tax, you see, begins taking a progressively larger bite out of any estate worth more than $600,000. Mr. Thigpen's advisers have warned him that his estate may top that figure by as much as $1 million. The projected estate tax bill? Some $345,000.

That's a problem because Mr. Thigpen is effectively ''tree poor.'' Although he is comfortably well off on paper, his wealth is all tied up in the trees. And unless the Thigpens or, in the event of their deaths, their children, clear cut a swath through the farm, they won't have the money to pay off the feds. The only alternative is to sell a lot of the land now, which would leave Mr. Thigpen with substantial capital gains taxes to pay. Or his children could sell it upon their parents' deaths to raise the money, thereby breaking up the family farm.

The latter is particularly painful to Mr. Thigpen, whose holdings include land inherited from his family. ''Giving up the tree farm we worked 50 years to create would hurt me and my family,'' he told members of the House Ways and Means Committee last month. ''If the tree farm had to be sold or the timber cut before its time, what would happen to the erosion control programs we put in place, or the wildlife habitat? Who would make certain that the lands stayed open for our neighbors to visit and enjoy? I know my children would. And I hope their children will have an opportunity after them.''

Once upon a time, or course, families like the Thigpens didn't have to worry about the likes of estate taxes. They were designed to hit the very wealthiest Americans. But as inflation moved Americans into one higher bracket after another, suddenly they found they too were ''rich.'' Where only one in 60 families paid estate taxes, now one in 20 do.

This week the committee is scheduled to begin marking up tax legislation—including estate-tax changes—as part of the Contract with America. The question is whether lawmakers can see, well, the forest for the trees.●

By Mr. STEVENS (by request):

S. 868. A bill to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES EMERGENCY LEAVE TRANSFER ACT OF 1995

Mr. STEVENS. Mr. President, the administration has sent to my office a bill to provide additional authority for leave transfer to Federal employees who are adversely affected by disasters or emergencies. I think it is appropriate to raise this at this time, and because it has come in just before we are going into recess, I want to introduce it and take this time to explain it, with the hope that we will be able to move it very rapidly when we get back.

This is a bill that would be called the Federal Employees Emergency Leave Transfer Act of 1995. In the event of a major disaster or emergency, the President would have the authority to direct the Office of Personnel Management to create a special leave transfer program for Federal employees affected by the disaster emergency.

Under current law, Federal employees may donate annual leave to other employees who face medical emergencies. Current law is limited to medical emergencies and requires recipients to exhaust their own leave before using donated leave.

Under this proposal I will introduce today, the emergency leave transfer program would extend to employees who do not face a medical emergency but need extra leave because of other effects of disasters or emergencies, such as a flood that has destroyed an employee's home or an earthquake has affected their lifestyle.

It would allow an agency-approved recipient to use donated leave without having to first exhaust their own leave. It would allow employees in any executive agency to donate leave for transfer

to affected employees in the same or in other agencies. It would allow current agency leave banks to donate leave to emergency leave transfer programs. OPM would have the authority to establish appropriate operating requirements for the emergency leave transfer program, including program limits on the amount of leave that could be donated and used under this program.

I want to emphasize that this leave transfer will permit employees to help other employees at no cost to the taxpayer, other than incidental administrative costs, because there is no additional leave provided under this program to any employee beyond that which is already credited to an employee which has been earned by that employee.

I think the aftermath of the Oklahoma disaster showed an overwhelming interest in employees being able to do something to assist fellow employees who are affected by a major disaster or emergency.

I commend OPM for thinking of this concept, and I am pleased to introduce at their request this bill to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies.

I thank my good friend from Utah for permitting me to take this time at this time.

Mr. President, I ask unanimous consent that the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the ROCORD, as follow:

S. 868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the ''Federal Employees Emergency Leave Transfer Act of 1995''.

SEC. 2. (a) Chapter 63 of title 5, United States Code, is amended by adding after subchapter V the following new subchapter:

''Subchapter VI—Leave Transfer in Disasters and Emergencies

''§ 6391. Authority for leave transfer program in disasters and emergencies

''(a) For the purpose of this section—

''(1) 'employee' means an employee as defined in section 6331(1); and

''(2) 'agency' means an Executive agency.

''(b) In the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management to establish an emergency leave transfer program under which any employee in any agency may donate unused annual leave for transfer to employees of the same or other agencies who are adversely affected by such disaster or emergency.

''(c) The Office of Personnel Management shall establish appropriate requirements for the operation of the emergency leave transfer program under subsection (b), including appropriate limitations on the donation and use of annual leave under the program. An employee may receive and use leave under the program without regard to any requirement that any annual leave and sick leave to a leave recipient's credit must be exhausted before any transferred annual leave may be used.

''(d) A leave bank established under subchapter IV may, to the extent provided in regulations prescribed by the Office of Personnel Management, donate annual leave to the emergency leave transfer program established under subsection (b).

''(e) Except to the extent that the Office of Personnel Management may prescribe by regulation, nothing in section 7351 shall apply to any solicitation, donation, or acceptance of leave under this section.

''(f) The Office of Personnel Management shall prescribe regulations necessary for the administration of this section.''.

(b) The analysis for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

''Subchapter VI—Leave Transfer in Disasters and Emergencies

''6391. Authority for leave transfer program in disasters and emergencies.''.

SEC. 3. The amendments made by section 2 of this Act shall take effect on the date of enactment of this Act.

SUMMARY OF THE FEDERAL EMPLOYEES EMERGENCY LEAVE TRANSFER ACT OF 1995

In the event of a major disaster or emergency, the President would have authority to direct the Office of Personnel Management (OPM) to create a special leave transfer program for Federal employees affected by the disaster or emergency.

Under current law, Federal employees may donate annual leave to other employees who face medical emergencies.

Current law is limited to medical emergencies, and requires recipients to exhaust their own leave before using donated leave.

Under this proposal, emergency leave transfer program—

Would extend to employees who do not face a medical emergency, but need extra leave because of other effects of disaster or emergency—e.g., flood destroyed employee's home;

Would allow agency-approved recipients to use donated leave without having to first exhaust their own leave;

Would allow employees in any Executive agency to donate leave for transfer to affected employees in the same or other agency; and

Would allow current agency leave banks to donate leave to emergency leave transfer program.

OPM would have authority to establish appropriate operating requirements for the emergency leave transfer program, including appropriate limits on amounts of leave that may be donated and used under program.

Leave transfer permits employees to help other employees, at no cost to the taxpayer (other than incidental administrative costs), since no additional leave is provided beyond what would already be credited.

By Mr. HATFIELD (for himself and Mr. JEFFORDS):

S. 870. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERSTATE WASTE ACT AMENDMENT ACT OF 1995

● Mr. HATFIELD. Mr. President, during the Senate consideration of the interstate waste bill, I reminded my colleagues that 10 States have achieved great success in dealing with solid waste by implementing some form of beverage container deposit system. My home State of Oregon, for example, has had remarkable success with its own bottle bill for over 20 years. Consequently, I offered the National Beverage Container Reuse and Recycling Act as an amendment to that legislation.

My amendment was ultimately withdrawn, but not before the chairman of the Environment and Public Works Committee, Senator CHAFEE, agreed to hold a hearing in his committee on this issue during the 104th Congress. I am enthused by this opportunity for the bottle bill and am formally introducing this legislation today. Although it will be referred to the Commerce Committee because of precedent, the Environment Committee is also an appropriate forum to consider reducing our solid waste stream. The National Beverage Container Reuse and Recycling Act of 1995 is identical to the bill I introduced in the 103d Congress.

As someone who grew up during the Great Depression, I am constantly reminded of the throw-away ethic that has emerged so prominently in this country. In this regard, Oregon's deposit system serves as a much greater role than merely cleaning up littered highways, saving energy and resources or reducing the waste following into our teeming landfills. The bottle bill acts as a tutor. It is a constant reminder of the conservation ethic that is an essential component of any plan to see this country out of its various crises. Each time a consumer returns a can for deposit, the conservation ethic is reaffirmed, and hopefully the consumer will then reapply this ethic in other areas.

This legislation will accomplish national objectives to meet our Nation's massive waste management difficulties. A national deposit system will reduce solid waste and litter, save natural resources and energy, and create a much needed partnership between consumers, industry, and local governments for the betterment of our communities.

So often, States serve as laboratories for what later emerges as successful national policies. The State of Oregon and other bottle bill States have proven that deposit programs are an effective method to deal with beverage containers, which make up the single largest component of waste systems. According to the General Accounting Office deposit law States, which account for only 18 percent of the population, recycle 65 percent of all glass and 98 percent of all PET plastic nationwide. That means 82 percent of the population is recycling less than 25 percent of our nation's beverage container waste.

As many of my colleagues know, I have a 20 year history on this issue and have been greatly enthused by developments in recent years in promoting the establishment of a national bottle bill. The commitment I received earlier this year for a hearing in the Environment

and Public Works Committee is greatly encouraging. Although this bill has historically been referred to the Senate Commerce Committee, in recent years significant actions on this measure have come in the Senate Environment and Public Works Committee and the Energy and Natural Resources Committee.

Senator JEFFORDS offered the bill as an amendment to the Resource Conservation and Recovery Act [RCRA] in the Environment and Public Works Committee during the 102d Congress. Even though this attempt failed by a vote of 6 to 10 it was a monumental step forward. Additionally, during the same Congress a hearing was held in the Senate Energy and Natural Resources Committee on the energy conservation implications of beverage container recycling as outlined in that session's bottle bill, S. 2335.

I regret that I frequently have come to the Senate floor to force the Senate to take action on this matter, but that seems to be the only effective procedure for moving forward on this bill. For example, during the 1992 Presidential campaign candidate Bill Clinton declared his support for a national bottle bill. However, once he took office he and the Congress were surprisingly silent on the issue. Consequently, I was forced to offer the Beverage Container Reuse and Recycling Act as an amendment on the Senate floor.

Mr. President, It is widely acknowledged that recycling is the wave of the future and this legislation will facilitate the recycling of beverage containers. I firmly believe the time has come for Congress to follow the wise lead of these States and encourage deposit systems on a national level. I strongly urge my colleagues to fully examine the benefits of a national beverage container deposit system and to support this bill.

I ask unanimous consent that several letters of support for the bottle bill amendment to the Interstate Waste bill be included in the RECORD.

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

CONTAINER RECYCLING INSTITUTE,
Washington, DC, May 12, 1995.

Senator MARK HATFIELD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATFIELD, The Container Recycling Institute salutes you for your unyielding support for a national deposit system for the collection of used beverage containers. With return rates of over 85 percent, the ten states which require deposits on beverage containers are doing the ''lion's share'' of the nation's recycling. It is the most effective recycling and litter reduction system on the books today. Residents of bottle bill states enjoy streets, beaches, parks and playgrounds that are virtually free of beverage container litter.

One-way beverage containers are the epitome of the throw-away society. Every year, over 30 billion beverage containers are either burned or landfilled in the Unites States. This senseless waste represents more than unwisely used landfill space, but also a squandering of the world's natural resources. A recent draft study of deposit laws by the Tellus Institute found that a national bottle bill would save $1.60 cents per person per year in avoided manufacturing emissions from beverage container production. The same study found that we would save $2.78 person per year from avoided litter pick up costs.

Deposit laws shift a major portion of the burden of recycling and litter pick up from state and local governments onto those who produce, sell and consume the product. In other words, the ''polluter pays''. For too long, the general population has been forced to pay for the social consequences of throw-away packaging. The unclaimed deposits, estimated to be about $1.7 billion per year, would be used by the states to help fund other recycling programs.

Sincerely,

SHEILA COGAN,
Executive Director.

MAY 12, 1995.

Hon. MARK HATFIELD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATFIELD: I strongly endorse the National Beverage Container Reuse and Recycling Act of 1995. The ten states that have passed container deposit legislation have demonstrated that this system is an effective litter and solid waste reduction mechanism. It has been successfully implemented in both rural and industrial states, providing a convenient recycling opportunity for practically everyone in the states that have passed it.

Several reputable studies have shown that deposit systems are fully compatible with curbside recycling programs. In fact, statistics show that more than half of all the people served by curbside recycling in the U.S. live in states that have deposit/redemption systems. With recent reports showing that municipal solid waste generation in on the rise, we need as many recycling tools as possible to ensure that we meet our recycling targets.

With recycling markets showing unprecedented strength, a national bottle bill will just barely satisfy the markets voracious appetite for recovered PET soft drink bottles. Carpets, shoes, containers, and recyclers are in danger of going out of business if they don't find more supplies of recyclable materials.

So, in the interest of creating jobs, diverting millions of tons of solid waste and virtually ridding the landscape of littered beverage containers, I wholeheartedly lend my support to the Beverage Container Reuse and Recycling Act of 1995.

Sincerely yours,

TINA HOBSON,
President,
Renew America.

RESOURCE RECYCLING,
Portland, OR, May 12, 1995.

Senator MARK HATFIELD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATFIELD: As technical editor of Resource Recycling, the nation's most widely distributed magazine dedicated to recycling issues, I endorse the National Beverage Container Reuse and Recycling Act of 1995.

Deposit laws have an impressive track record, both internationally and in the U.S. Sweden's recycling rate for aluminum cans of 90 percent in 1994, the highest in the world, is due to that country's deposit on cans. The ten states that have passed container deposit legislation, including our home state of Oregon, have demonstrated that this system is an effective litter and solid waste reduction mechanism. California recently reported a 75 percent decrease in beverage container litter since 1986. Deposit laws have been successfully implemented in both rural and industrial states, providing a convenient recycling opportunity for practically everyone in the states that have passed it. I can say with confidence that the recycling movement would not be as healthy as it is today were it not for the consistent high return rates of the deposit law states.

Several reputable studies have shown that deposit systems are fully compatible with curbside recycling programs. In fact, statistics show that over half of all people served by curbside recycling collection in the U.S. today, live in states that have deposit or redemption systems. With recent reports showing that municipal solid waste generation is on the rise, we need as many recycling tools as possible to ensure that we meet our recycling targets.

With recycling markets showing unprecedented strength, a national bottle bill will just barely satisfy the market's voracious appetite for recovered PET soft drink bottles. Carpets, containers and textiles are some of the uses for recovered soft drink bottles, and plastic reclaimers are in danger of going out of business for lack of supplies of recyclable materials.

So, in the interest of creating jobs, diverting millions of tons of solid waste into high quality feedstocks for our factories and ridding the landscape of littered beverage containers, I would enthusiastically support the National Beverage Container Reuse and Recycling Act of 1995.

Sincerely,

STEVE APOTHEKER,
Technical Editor.

POLY-ANNA PLASTIC
PRODUCTS, INC.,
Milwaukee, WI, May 15, 1995.

Hon. RUSSELL D. FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATOR: My hope is that this letter reaches you while there is still a live amendment on the floor for a National Container Deposit (A.K.A. ''Bottle Bill.'') As a recycler, I promise you that nothing brings in the bottles and cans as a deposit does and never has a market gone begging for that material more than it does today. If a deposit law is written to overcome the problems that were evident in the first group of state bills now in force, we could solve many of the recycling, solid waste, litter and financial problems in one fell swoop. The solution is to have the system based on the California redemption system now in place with some improvements. The key is to let redemption take place at recycling centers that desire it and not in the grocery store that hates it. The second target is to allow the approximate 1.6 Billion dollars in unredeemed deposits (estimate based on national ten cent deposit) to go directly to the cities responsible for administering recycling programs. This money, plus the cans and jugs that they too could redeem for full deposit from the waste stream would solve problem for cities such as DC where programs have just recently been shut down.

I am a board member of the National Recycling Coalition and have authored a position statement on such a bill that will be debated this Friday afternoon in Alexandria at the NRC's spring board meeting. I have studied the issue quite in detail and would be happy to answer any questions you may have either here from my office or while in the DC area this Friday and Saturday at the Holiday Inn Old Town. This is a chance for a great victory for recycling and our environment. I hope you can get behind it.

Thank you.

MARTY FORMAN,
President.

NORTHEASTERN CONNECTICUT REGIONAL RESOURCE RECOVERY AUTHORITY,
Dayville, CT, May 12, 1995.

Senator MARK HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: I wish to lend my support for the National Beverage Container Recycling Act. As a regional recycling coordinator in one of the nation's few bottle bill states I can unquivocally say that deposit legislation has greatly aided our recycling efforts. As a professional in the field of solid waste management the benefits of the National Beverage Container Recycling Act are many and clear:

Bottle Bills effect a far greater recovery rate for beverage containers than curbside recycling programs.

Bottle Bills dramatically reduce beverage container litter, including broken glass.

Deposit legislation results in a much higher grade of scrap.

By effectively capturing PET plastic recyclers are not faced with including light weight material at curbside.

Beverage containers have unique properties; they are one-use containers often consumed away from home (and recycling programs). For much of the rural U.S, expansive and expensive curbside recycling are not practical. Bottle bills help address this fact.

Refillable containers, once the mainstay of the beverage industry, are really only viable with deposits that ensure the containers are returned for refilling.

WINSTON AVERILL,
Regional Recycling Coordinator.●

By Mr. JOHNSTON (for himself and Mr. MURKOWSKI):

S. 871. A bill to provide for the management and disposition of the Hanford Reservation, to provide for environmental management activities at the reservation, and for other purposes; to the Committee on Energy and Natural Resources.

THE HANFORD LAND MANAGEMENT ACT

● Mr. JOHNSTON. Mr. President, earlier this spring the Department of Energy released a report on the estimated cost of cleaning up the Department's nuclear weapons complex. The report provides the first realistic assessment of the cost of the cleanup program since it began in 1989.

The results of this assessment are sobering. The Department concluded that it would cost anywhere between $175 billion and half a trillion dollars to clean up these sites, depending on the baseline case would cost $230 billion over the next 75 years.

Even these figures exclude the cost of cleaning up problems for which no feasible cleanup technology exists, the $23 billion we have already spent, and the $50 to $75 million per year we will spend monitoring and maintaining them after 2070.

The Department's report follows on the heels of the Blush report on the Department of Energy's efforts to cleanup the Hanford Reservation. Last fall, the Committee on Energy and Natural Resources commissioned Steve Blush, a former director of the Department of Energy's nuclear safety office, to evaluate the Hanford cleanup.

The committee asked Mr. Blush to focus on Hanford because it is the largest of the Department's weapons sites and it poses some of the most intractable cleanup problems. Hanford now receives about one quarter of the $6 billion we spend on this program each year. We have already spent $7.5 billion on the Hanford cleanup and are currently spending $1.5 billion per year.

Mr. Blush found that the Hanford cleanup is ''floundering in a legal and regulatory morass.'' His report describes regulatory requirements that are:

> unworkable, disjunctive, lack scientific and technical merit, undermine any sense of accountability for taxpayer dollars, and most importantly, are having an overall negative effect on worker and public health and safety.

The Blush report gives no aid or comfort to those who think all our problems can be solved by abolishing the Department of Energy. The report makes it clear that the responsibility for creating and perpetuating this unworkable system lies with us, the Congress.

We have given the Department of Energy an impossible task. We have told it to meet standards that cannot be attained, to use technologies that do not exist, to meet deadlines that cannot be achieved, to employ workers that are not needed, and to do it all with less money than it requested. To make matters worse, the law now provides for criminal penalties, including jail time, for senior Department officials if they fail to do the impossible.

Mr. President, the Hanford cleanup cannot continue on its present course. The administration has already proposed a $4.4 billion reduction in the overall cleanup program over the next 5 years, over a billion of which is likely to come out of the Hanford cleanup. Lower funding will result in deadlines being missed, which will result in the Department being fined. Fines will have to be paid out of cleanup funds, which will result in more deadlines being missed and more fines being levied. Moreover, senior officials will be forced to leave their posts rather than face criminal sanctions.

If the cleanup program is not reformed, it will, in time, collapse of its own weight to the detriment of all concerned. The only question is how much money will have been wasted before that happens.

The problems besetting the Hanford cleanup cannot be fixed by the Department itself or by Congress through the appropriations process. The Blush report makes clear that ''Congress must fundamentally change the underlying legal and regulatory framework.* * *'' What is needed is ''legislation that redefines the regulatory framework and establishes fiscal responsibility, a more realistic timeframe, better standards, and a more clearly defined mission for the cleanup.''

Accordingly, Mr. President, Senator MURKOWSKI and I are today introducing a bill to establish a comprehensive program to clean up the Hanford site. The bill requires the Department of Energy to prepare a comprehensive environmental management plan for Hanford. The plan is to include a future land-use plan for the 560-square-mile site, an assessment of the risks posed by conditions at the site, and new programs for managing radioactive and hazardous substances and cleaning up environmental contamination at the site.

While the reforms made by this bill are necessary, they are not sufficient. Additional legislation will be needed to address conflicts between the new cleanup requirements and the existing jumble of environmental laws, regulations, and agreements that now govern Hanford. In addition, legislation is urgently needed to fix the problem of fines and criminal liability. Senator MURKOWSKI and I will also offer an amendment to the bill to address those matters.

The bill we are introducing today focuses solely on Hanford. That was the site the Blush report examined and, therefore, the site we know most about. Many of the problems at Hanford are systemic to the entire weapons complex. Many of the reforms we are proposing for Hanford can, and probably should be, extended to other sites. My hope is that Hanford might serve as a pilot for the rest of the complex.

Rumors about this bill have already excited considerable fear, consternation, and resentment in the Hanford community. Some of the conditions at Hanford pose serious health and safety risks that the public has every right to have remedied. In addition, the cleanup program is extremely important to the area's economy. A local paper has described the cleanup as bringing a ''river of money'' into the community. Understandably, residents do not want to see the flow diminished.

I want to assure the people of the Northwest and their able representatives in this body that my purpose in offering this bill is to create a program that works, that is sustainable within the Department of Energy's shrinking budget, that adequately protects the public health and safety and the environment, and that is scientifically sound and achievable.

I urge my colleagues to support me in this effort.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUMMARY OF THE HANFORD LAND MANAGEMENT ACT

Sec. 1. Short title

Self-explanatory.

Sec. 2. Definitions

Self-explanatory.

Sec. 3. Environmental management plan

Directs the Secretary of Energy to prepare a comprehensive plan governing environmental management activities at Hanford.

Environmental management activities include both the management (i.e., treatment, storage, and disposal) of hazardous substances and radioactive materials and environmental cleanup activities. The plan is to include a future land use plan for the site, an assessment of the risks at the site, and programs both for managing hazardous substances and radioactive materials and for cleaning up the site.

Sec. 4. Land use

Requires the Secretary to prepare a comprehensive land use plan for Hanford as part of the environmental management plan. The Secretary is to designate future uses for parcels within the Hanford Reservation after consideration of risks to the public and cleanup workers; the technical feasibility and cost of cleaning up the site for other uses; the importance of the site for other purposes; the views of the Department of the Interior, the Governor of Washington, affected communities, and Indian tribes; and the availability of federal funds.

Implementation of the Secretary's recommendations to release parcels from federal ownership will require subsequent legislation.

Sec. 5. Risk assessment

Requires the Secretary to conduct a comprehensive risk assessment of all major activities, substances, and conditions at Hanford that pose a risk to human health, safety, or the environment. The risk assessment protocol is based upon S. 333, the Risk Management Act of 1995, reported from the Committee on Energy and Natural Resources.

Sec. 6. Materials and waste management

Directs the Secretary to set new standards for the treatment storage, and disposal of hazardous waste and radioactive materials at Hanford. The standards must provide adequate protection to the health and safety of the public and accord with the common defense and security (i.e., the standard applied to civilian nuclear power plants licensed by the Nuclear Regulatory Commission).

In setting these standards, the Secretary must consider reasonably anticipated future land uses, the views of the affected communities and Indian tribes, the availability of cost-effective technology, the risk assessment conducted under section 5, comparable federal and state standards, and the recommendations of the Defense Nuclear Facilities Safety Board.

In addition to the standards, the environmental management plan must include an inventory of hazardous substances and radioactive materials at Hanford and designate the method chosen to manage such substance or material.

In selecting management options, the Secretary must consider risk to the public and workers, cost, the possibility of interim storage pending radioactive decay or technological development, and the views of federal and state regulators and the affected communities and Indian tribes.

Sec. 7. Site restoration

Directs the Secretary to set new standards for cleaning up the site. The standards must provide adequate protection to the health and safety of the public and accord with the common defense and security (i.e., the standards applied to civilian nuclear power plants licensed by the Nuclear Regulatory Commission).

In setting these standards, the Secretary must consider reasonably anticipated future land uses, the views of the affected communities and Indian tribes, the availability of cost-effective technology, the risk assessment conducted under section 5, comparable federal and state standards, and the recommendations of the Defense Nuclear Facilities Safety Board.

In addition to the standards, the environmental management plan must designate the remedial actions chosen to clean up the site.

In selecting remedial actions, the Secretary must consider the effectiveness of the remedy, risk to the public and workers, cost, and the views of the affected communities and Indian tribes (i.e., the factors proposed by the Administration in its Superfund reform bill in 1994). The Secretary must also consider the possibility of interim containment pending radioactive decay and technological development.

Sec. 8. Workforce restructuring

Requires the Secretary to reduce the number of employees at Hanford to the number needed to accomplish authorized activities.

Sec. 9. Authorization of appropriations

Authorizes appropriation of such sums as may be necessary for environmental management activities at Hanford.●

By Mr. BOND (for himself and Mr. LIEBERMAN):

S. 872. A bill to provide for the establishment of a modernized and simplified health information network for Medicare and Medicaid, and for other purposes; to the Committee on Finance.

THE HEALTH INFORMATION MODERNIZATION AND SECURITY ACT

Mr. BOND. Mr. President, I rise today to introduce an old friend—the Health Information Modernization and Security Act. In past years, I had worked with Senator Riegle in developing this legislation. I am now very pleased that Senator LIEBERMAN has been working with me to present this legislation for this Congress. Also, as in past years, we are very fortunate to have the bipartisan support of Congressmen HOBSON and SAWYER from Ohio who will introduce this bill in the other Chamber.

Our health care system today needlessly wastes billions of dollars on red tape and paperwork. This administrative waste effectively adds a 10-percent surcharge to every health insurance and health bill in the country. In a world that is increasingly automated and computerized, health professionals must still largely rely on an antiquated and inefficient paper-based system to file claims with insurers and coordinate benefits.

The bill that I am introducing today is the latest in a project that began 3 years ago with the introduction of the Health Insurance Simplification and Portability Act. That legislation has evolved considerably since then and we have sought the input of hundreds of experts from across the Nation. Last year during the health care reform debate, this effort received broad bipartisan support and was included in nearly every major health care reform bill.

The first and most obvious question is: Why is Federal legislation needed? The answer to that question goes back to 1991 when the Workgroup for Electronic Data Interchange, or WEDI as it is now called, was formed by then Secretary of Health and Human Services, Dr. Louis Sullivan. WEDI was formed to respond to the challenge of reducing administrative costs in the Nation's health care system. WEDI is made up of health insurers, hospital officials, physicians, dentists, nurses, pharmacists, privacy experts, businesses, and technology experts. WEDI has strongly recommended that the Federal Government adopt standards for the electronic data interchange of financial and administrative information to ensure uniformity across State lines.

There is a blizzard of paperwork that is a nightmare for patients, hospitals, doctors and businesses in this country. Everyone agrees that a solution must be found that reduces these costs and the burden they are placing on our health care system and the ability of people to afford it. A study conducted by Lewin-VHI estimated that administrative costs add $135 billion in health costs in the United States. These costs are escalated by the unwieldy inefficient paperwork-blizzard billing system that has evolved in this country.

In other sectors where accurate and timely information is key to production, the investment has been made in information systems. There are good explanations for why health care has been slow to invest in information systems. There are barriers such as so-called quill pen laws that require information to be sent and kept on paper. There is a lack of standards for the data and there is a lack of discipline on the part of insurers to agree unanimously to a common set of data to use for billing purposes. These are just a couple of examples of the barriers to overcome.

In March 1992, I introduced, along with Senator Riegle, the Health Insurance Simplification and Portability Act. The main purpose of that bill was to reduce administrative costs and protect consumers from insurance rip-offs. I am proud to say that it was one of the few bipartisan health bills that were introduced during that Congress. Later in 1992, I introduced the Medical and Health Insurance Information Reform Act which was the Bush administration's proposal for bringing administrative costs under control.

My goal has been to draft legislation to propose what the experts are saying must be done to reduce administrative costs. The steps they recommend would facilitate the development of a viable market in this area and lead to the eventual implementation of electronic solutions to many information problems that exist in health care today.

In determining the proper Federal role, the experts have been telling us is that first they don't want Government to be part of the problem. That should be obvious, but as we all know it many times is easier said than done.

Second, they want the Government to adopt a set of standards and conventions for electronic data interchange for financial and administrative transactions in the health care system. In adopting these standards, the Government should recognize the value of standards that have already been

adopted or are in development and not try to reinvent the wheel. Where standards already exist, those are the standards that should be adopted.

And lastly, but most importantly, legislation is needed to protect the privacy and confidentiality of patient data. The importance of this effort must be underscored. We must ensure that access to data that includes patient identifiers is secure.

Under this legislation, the Secretary would adopt national standards for electronic health claims and other financial and administrative transactions. The standards that would be adopted by the Secretary would be those that have been developed by private standards-setting organizations that seek broad consensus and input to their standards. If the Secretary determines, however, that the standards that have been developed by these standard-setting organizations are not practical and would lead to substantially greater administrative costs compared to other alternatives, then the Secretary could adopt other standards that are in use and generally accepted.

Two years after these national standards for electronic transactions are adopted, all health care plans including Medicare and Medicaid would be required to accept health claims electronically or perform any of the standardized transactions electronically with any doctor, pharmacist, dentist, hospital, or any health provider that wants to take advantage of the new electronic standards. Smaller health plans would be given an additional year, for a total of three years, to accept the electronic transactions.

Putting this system of standards in place means that all health providers would be able to send their insurance claims electronically to the universe of payors using the same formats and data. These standards would create an electronic universal claims form. It further means that payors would be able to perform coordination of benefits activities electronically with all other payors. This will help crack down on fraud and dramatically reduce the number of improperly paid claims. This will save consumers billions of dollars each year.

Having a system with these national standards in place will also mean that providers will no longer be forced to wade through the multiple forms and formats and requests for additional data for billing in order to get reimbursed for their services. In addition, health plans would reap large savings from the increased number of claims they would receive electronically. When insurers accept claims on paper an expensive data entry system is in place today to computerize the data from the paper claim.

This bill would also repeal the controversial Medicare and Medicaid Databank. This databank was created in OBRA 93 to collect data at the Health Care Financing Administration to identify cases in which claims were improperly paid by Medicare when they should have been paid by a private insurer. By law, when a Medicare beneficiary has private insurance, the private insurance plan is the primary payor. The databank had proved to be unworkable, but the need still exists. Medicare loses billions of dollars each year by paying claims improperly.

In estimating the amount of savings that would result from this effort, the workgroup for electronic data interchange [WEDI] conducted an extense study and analysis of data to determine the costs of implementation and the net savings possible from moving to electronic data interchange of health data. Using the WEDI data, it is estimated that the changes that would result from this bill would produce a net savings of over $29 billion over a 5-year period to health plans, and providers.

In closing, the Government should play only the minimal role needed to help the market work. Government should not design the solution. If the Government tried to design the solution we would end up with another set of multimillion dollar DOD toilet seats and we would not solve the problems that exist.

In the past I have been told to wait for passage of a comprehensive health care plan to enact this legislation into law. I have agreed with that strategy in the past, but it did not happen and the legislation has died in two previous Congresses. Had we gone ahead in 1992, this system would be in place today. I do still want to see comprehensive health care reform and will await action by Congress to take that important step. I believe this legislation will and should be included in comprehensive reform of the health care system. However, I will ask the committee of jurisdiction and the majority leader to move this legislation as a free standing bill.

This health care information system will lower administrative costs, improve the quality of care and help us to learn what works and what does not work in health care. This system will provide innumerable benefits to our health care system and to the patients who rely on it.

I still agree that we need comprehensive health care reform. I want to see that done. I want this bill to be considered. I believe it will be included in most of the major reform packages coming forward. But I believe that, if no comprehensive legislation passes, we can pass this bill.

If we had gone ahead and passed it in 1992, the 2 or 3 years needed to get the system up and running would have been accomplished and we could have that process in place now.

If it appears that we will not have comprehensive health legislation I will ask the committee of jurisdiction and the majority leader to move this legislation as a freestanding bill. It will lower administrative costs, improve the quality of health care, and help us learn what works and what does not work.

I welcome inquiries of my colleagues. We solicit support. Senator LIEBERMAN and I would be delighted to have other colleagues join with us in this effort.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

SUMMARY OF THE HEALTH INFORMATION MODERNIZATION AND SECURITY ACT

TITLE I—PURPOSE AND REPEAL OF DATABANK

Purpose: the purpose is to improve the Medicare and Medicaid programs and the efficiency and effectiveness of the health care system by encouraging the development of a health information network through the establishment of standards and requirements for electronic transmission of certain health information.

Repeal of databank: Repeals the Medicare and Medicaid Coverage Databank established in OBRA 93 when the Secretary of Health and Human Services provides written notice to Congress that the Medicare and Medicaid Coverage Data Bank is no longer necessary because of the operation of the health information network established pursuant to this Act.

TITLE II—ADMINISTRATIVE SIMPLIFICATION

Adoption of electronic transaction standards: The Secretary adopts standards so that certain common health care administrative transactions may be conducted electronically to reduce the costs of paying and providing health care. These transactions include claims, coordination of benefits, claims attachments, enrollment and disenrollment, eligibility, payment and remittance advice, premium payments, first report of injury, claims status, and referral certification and authorization of services. These standards must be those that have been developed by a private standards setting organization such as the American National Standards Institute.

The Secretary may adopt additional standards if the Secretary determines that the standards developed by private standards setting organizations are impractical and more costly to implement than a standard that is in use and generally accepted. The Secretary is required to publish in the Federal Register the analysis upon which such a determination is made.

The Secretary may adopt different standards for data elements than those developed by a standards setting organization through the use of negotiated rulemaking if a different standard would substantially reduce administrative costs.

The Secretary also adopts standards for unique health identifiers, code sets, electronic signatures and coordination of benefits.

Security standards: The Secretary is required to adopt security standards to protect the confidentiality of health information, to protect against threats or hazards to the security or integrity of the information, and to protect against unauthorized uses or disclosures of health information.

Privacy standards: The Secreatry is required to adopt privacy standards including the rights of individuals with respect to their health information and the procedures for exercising these rights. Privacy standards shall also include standards describing the uses and disclosures which are authorized, and the security of such information.

Health information advisory committee: The Secretary must consult with other appropriate federal agencies in carrying out these duties and must rely on recommendations from the Health Information Advisory

Committee. The Secretary is required to publish in the Federal Register the recommendations of the advisory committee regarding adoption of standards.

Timetables for adoption of standards: Initial standards are to be adopted within 18 months of enactment with the exception of standards for claims attachments which are to be adopted within 30 months. The Secretary reviews and modifies these standards as determined appropriate but not more frequently than every 6 months. These modifications must still be those adopted by a private standards-setting organization or follow the procedures outlined earlier.

Requirements for health plans: If anyone desires to conduct any of the standardized financial and administrative transactions with a health plan (which includes government health plans), then the health plan must conduct that standard transaction in a timely manner. A health plan can satisfy this requirement by using a health information network service or ''clearinghouse'' to translate a transaction into the standardized form.

Timetables for compliance with requirements: Large health plans, as defined by the Secretary, must comply within 24 months of the adoption of a standard. Small health plans must comply within 36 months. Health plans must comply with modification to standards in a timeframe determined appropriate by the Secretary, but not sooner than 180 days.

General penalty for failure to comply with requirements and standards: A penalty of $100 for each violation is imposed. No penalty higher than $25,000 may be imposed during a calendar year for a violation of a specific standard or requirement. Penalties do not apply if it established that the person did not know and would not have known by exercising reasonable diligence. If the failure was due to reasonable cause and not to willful neglect and the failure is corrected within 30 days (or longer as determined by the Secretary), no penalty is applied. A penalty not already waived, may be further reduced if the failure is due to reasonable cause and not to willful neglect and the penalty would be excessive relative to the compliance failure.

Criminal penalties for wrongful disclosure of health information: Any person who knowingly (1) uses or causes a unique identifier to be used for a purpose not authorized by the Secretary, (2) obtains individually identifiable health information in violation of the privacy standards or (3) discloses individually identifiable health information to another person in violation of the privacy standards shall (1) be fined up to $50,000, imprisoned for up to a year, or both, (2) if the offense is committed under false pretenses, fined up to $100,000, imprisoned for up to 5 years, or both; and (3) if the offense is committed with intent to sell transfer, or use individually identifiable health information for commercial advantage, personal gain or malicious harm, fined up to $250,000, imprisoned for up to 10 years, or both.

Effect on State law: Provisions, requirements and standards under this Act supersede contrary provisions of State law including laws that require medical plan records or billing information to be maintained in written rather than electronic form (so-called ''quill pen'' laws) and provisions which are more stringent than the requirements or standards under the Act. Exceptions: (1) state laws which establish more stringent requirements or standards with respect to privacy of individually identifiable health information (2) state laws which require health providers to transmit financial and administrative health transactions electronically, (3) state laws which provide for the coordination of health benefits which are in effect on the date of enactment, (4) state laws that the Secretary determines are necessary to prevent fraud and abuse. Nothing in this Act preempts or invalidates any state or federal laws for public health reporting of certain health data.

Health information advisory committee: Establishes a Health Information Advisory Committee of 15 members; 3 appointed by the President, 6 appointed by the Speaker of the House of Representatives after consultation with the Minority Leader, and 6 appointed by the President pro tempore of the Senate after consultation with the Minority Leader of the Senate.

Standards for patient medical record information: Not earlier than 4 years, but sooner than 6 years after enactment, the Secretary is required to recommend to Congress a plan for developing and implementing uniform data standards for patient medical record information and the electronic exchange of such information.

Grants for demonstration projects: The Secretary is authorized to make grants for demonstration projects to promote the development and use of electronically integrated clinical information systems and computerized patient medical records.

Mr. LIEBERMAN. Mr. President, I am pleased to join Senator BOND in introducing the Health Information Modernization and Security Act. The bill will reduce the cost and paperwork associated with processing health care transactions by speeding the transition from a paper-based system to a system where claims are processed electronically. We worked together on similar legislation in the last Congress in the context of comprehensive health care reform. I thank Senator BOND for his leadership on the bill.

Mr. President, virtually everyone agrees that simplifying the administrative processes in our health care system will have important benefits. Administrative overhead costs can be cut dramatically by standardizing claims forms and converting as many paper claims as possible to electronic transactions. In a hearing I chaired last year before the Regulation and Government Information Subcommittee of the Government Affairs Committee, Linda Ryan, director of the New York State demonstration project, testified that participating hospitals in New York were saving over $8 a claim by filing electronically.

Even more money could be saved by improving the so-called coordination of benefits process whereby insurers determined who should pay first, and who should cover only the remainder of the bill. This process could be automated and completed electronically. At times, however, it is still done with telephone calls. We need to give our administrative systems a dose of high-technology medicine.

Reducing paperwork burdens and costs for doctors, hospitals, insurance companies, and patients will free up time and money so that more of our health care resources can go to delivering health care. The Government will also benefit, particularly from improved coordination of benefits. Since Medicare is often the second payer, better coordination of benefits will save the Medicare program—and taxpayers that fund it—millions, perhaps billions, of dollars.

Experience counsels caution in building or imposing new information requirements in health care. The legislation we are introducing today imposes minimal burdens on the private and public sectors and will produce substantial savings throughout the health care industry. Under the bill, the Secretary of the Department of Health and Human Services will develop standards, rules and procedures to facilitate the electronic exchange of data.

Health plans will be required to use standard data formats. The Secretary will also establish standards to ensure the security and privacy of medical information.

The bill establishes a Health Information Advisory Committee to provide private sector input to the Secretary in developing standards for electronic claims submittal. The committee will also study the feasibility of adopting uniform data standards for patient medical record information, a challenging objective that, if achieved, will greatly reduce paperwork and improve the information available for health care research. The bill also authorizes the Secretary to provide grants for demonstration projects to promote the development and use of electronically integrated clinical information systems and computerized patient medical records.

Finally, the bill repeals an ineffective and burdensome law Congress passed as part of the 1993 Omnibus Budget Reconciliation Act. That bill established the Medicare data bank to improve coordination of benefits. The law requires employers to annually provide to the Federal Government the names, social security numbers, and dates of coverage for all employees, spouses and dependents receiving health coverage. Last year in a Government Affairs Committee hearing the General Accounting Office testified that the Medicare data bank will not even add significantly to Medicare or Medicaid's ability to collect mistaken payments. The bill we are introducing today will improve Medicare coordination of benefits without imposing an unnecessary burden on employers.

Mr. President, health care information processing is, to be frank, a dry and complicated subject. But by addressing this ''below the horizon'' issue we can significantly reduce the cost of our health care system and improve its effectiveness. I urge my colleagues to join Senator BOND and I in our effort to do just that by supporting the Health Information Modernization and Security Act.

Mr. ASHCROFT. Mr. President, may I take this opportunity to commend the senior Senator from the State of Missouri for his persistence on a most important matter as it relates to health care of Americans. I know his diligence in this area has resulted from

a long time of study and an understanding of medical recordkeeping. I am pleased to have the opportunity to commend him and to thank him for his performance in this respect.

THE CONTRIBUTIONS OF MARK HAYES

Mr. BOND. Mr. President, because of the limitations of time during morning business, I gave only a summary of the statement I had on the Health Information Modernization and Security Act.

There is another very important part of it that I would like to have added to that record. The fact that this measure has been worked on for at least 3, and perhaps 4½ or five years by Mark Hayes, a very capable member of my staff.

Mark has worked tirelessly contacting all of the interested parties working with governmental agencies, private standard setting organizations, and people who are concerned about privacy, and all other aspects of the measure. It is due in large part to his dedication, his skill, and his good humor to put up with all of the many, many different variations and different ideas that we were able to produce what I think is a very good measure.

I am very pleased with that measure. But I also note that this is the last day that Mr. Hayes will be working with me on the Small Business Committee staff. And I take this opportunity to express to him my sincere appreciation for his dedicated efforts.

I can say from those who have contacted me who have worked with him that there are many, many people who join with me in expressing appreciation for the great leadership that he has shown.

We shall miss him in the Federal Government. But I know that he will do well in the private sector, and the work that he has done on the Health Information Modernization and Security Act I think will serve the cause of improving and making more efficient the health care delivery system in the United States.

By Mr. PRESSLER:

S. 875. A bill to amend section 202 of the Federal Property and Administrative Services Act of 1949 to exclude certain property in the State of South Dakota; to the Committee on Environment and Public Works.

LAND TRANSFER LEGISLATION

Mr. PRESSLER. Mr. President, today I am introducing a bill to stop the proposed transfer of Federal land in South Dakota to the Standing Rock Sioux Tribe. The bill is simple: It removes any authority for the U.S. Army Corps of Engineers to transfer lands in South Dakota acquired by the U.S. for construction and operation of reservoirs on the mainstem of the Missouri River and transfer them pursuant to Public Law 93–599, or any other law.

BACKGROUND

This issue is not new to the Senate and to the people of South Dakota. In October 1992, Congress passed the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act. This law called for the transfer of approximately 15,000 acres along Lake Oahe and the Missouri River in South Dakota from the corps to the Standing Rock Sioux Tribe. However, it soon became clear that this proposed transfer was a mistake. The transfer had significant public opposition, beginning with the Governor of South Dakota. It also was learned that the costs to the Federal Government to transfer these lands was significantly more than the actual value of the land itself.

As a result Mr. President, on February 9, 1994, the Senate voted to repeal the proposed land transfer. However, the Senate repeal was amended by the House and the final version signed into bill contained language directing the corps to proceed with the transfer. The House language directed the Corps to pursue these land transfers pursuant to Public Law 93–599—a 1975 Federal law that deals with the disposal of surplus government lands.

Mr. President, I remind my colleagues that the Senate last year rejected the land transfer language due to the costs involved. Even under the best scenario, the costs of the transfer was more than double than value of the land. Some costs estimates were more than five times the estimated land value. Hardly a wise use of taxpayers' dollars.

LEGISLATION IS NEEDED FOR THE TRANSFER OF LANDS

Mr. President, I have been very hesitant to support Federal land transfers since they were first suggested in 1992. I also am quite troubled with the process being used by the U.S. Army Corps of Engineers. The corps appears to be intent in doing all it can to transfer the land, regardless of what is in the best interests of all South Dakotans. In fact, I believe the corps lacks the statutory authority to transfer the large tract of land near Lake Oahe. This is most troubling since the corps has regulations pending to transfer these lands.

As I stated earlier, Public Law 93–599 deals with the disposal of excess government lands. The corps previously conducted an assessment of excess lands along Lake Oahe and determined that only 386 acres could be deemed excess. Yet, the corps intends to transfer 15,000 acres.

Mr. President, when I learned of the proposed transfer in March of this year I wrote to the Secretary of the Army questioning the legal authority of the corps to transfer Federal land beyond what it deemed to be excess. I asked the Secretary to provide me with a justification of the corps' legal authority to carry out the transfer, prior to the issuance of any regulations.

I was surprised to learn that the corps issued the land transfer regulations on April 10, 1995. It was more than a month after that, on May 17, that I received response to my inquiry to the Secretary of the Army.

The response is very troubling. Essentially, the corps' intends to redefine the regulations to expand what is deemed excess in order for the corps to carry out the transfer. In short, rather than alter the transfer to make it consistent with the law, the corps intends to twist the law so that it is consistent with the transfer.

Mr. President, that is unacceptable. The Army clearly is intent on an ill-advised and illegal transfer of Federal land. The lands under consideration are neither excess land nor conditionally excess lands within the meaning of the law as currently defined. Given this fact, and the clear will of Congress to restrict the corps' land transfer authority, this land transfer must be decided by legislation—not regulation.

STRONG PUBLIC OPPOSITION

Mr. President, plain and simple the proposed land transfer is not in the best interest of South Dakota. As disturbed as I am that the corps is acting beyond its legal authority, I am equally astounded that the corps would take this action without hearing from the State of South Dakota and its citizens. Their concerns must be heard.

What are these concerns? First, South Dakotans are concerned about future access to the land. Sportsmen in the State are concerned that hunting and fishing could be restricted. Others are concerned with possible restrictions on the use of shorelines for recreational activities, such as swimming, boating and picnicking.

Those supporting the transfer state that access will be secured. How can they be so sure? Nothing has been proposed to ensure continued access. The interests of all South Dakotans are not being considered.

In addition, the Governor of South Dakota also has serious concerns with the transfer. In fact, both the Governor and attorney general of South Dakota support the legislation I am introducing today.

Wildlife management is a major concern should corps lands be transferred. That is why the South Dakota Wildlife Federation opposed the transfer. As a recent editorial in the Yankton Press and Dakotan opposing the transfer said ''* * * the real public concern is the environment. Environmental management along the Missouri already is damaged by dozens of jurisdictions with different agendas. Imagine the difficulty if the corps needed a few acres back for a bird breeding bank.'' The editorial concluded the corps ownership of the land offers a systems management concept for the river. This would be lost if the lands were transferred.

In addition, the issue of jurisdiction over land and water in the affected areas needs to be addressed. Jurisdiction on power generation facilities must be spelled out.

DANGEROUS PRECEDENTS ARE BEING SET

Mr. President, should the proposed regulations be carried out, a dangerous precedent clearly would be set that

could impact future land transfers. Remember, Congress passed legislation to do the transfer in 1992, and in 1994 passed legislation to restrict the transfer.

By permitting this transfer through a clearly unfair regulatory process, future land transfers could take place throughout the country that are not in the public interest. As a recent editorial in the Watertown Public Opinion stated ''The authority for the corps to transfer excess property away from the taxpayers who finance their project is inconceivable, and if allowed to progress will have far-reaching ramifications in other states.''

Mr. President, I ask unanimous consent several documents be placed in the RECORD at the end of my remarks.

CONCLUSION

Mr. President, the central issue here is fairness—fairness for all impacted by land transfers. The issue is about doing the right thing for the State of South Dakota and all its citizens.

Do not be misled. The corps' transfer would be precedent setting.

Similar transfers could take place that include land that is part of a county's tax base. Transfer of these lands would remove them from the tax base and may cause financial hardships in counties where budgets are already stretched to the limit.

Mr. President, ultimately what we must put in place is a legislative process that ensures citizen consultation and input on all transfers of Federal land. All citizens—Native American and non-Native American—should have the opportunity to have a fair chance to determine how public land is to be used and administered.

Mr. President, while this bill simply addresses the land transfers in South Dakota along Lake Oahe, I also am preparing legislation to ensure that land currently on a county's tax roll, stays there. Under that proposal, the mere purchase of land, whether it be by the Federal Government, tribe or other entity, should not result in the removal of land from the local tax rolls. If it is the Federal government, acting on behalf of the tribes, or just the tribes itself, it should require legislation passed by Congress to remove the purchased land from the county tax rolls. Again, the issue is fairness. This is one area that needs to be carefully addressed.

Mr. President, I will save those comments for when that bill is ready. Today I wish to bring the land transfer bill into the public debate. I urge my colleagues to work with me to seek a solution. Today, it is Lake Oahe, SD. Tomorrow, it could in Utah, Arizona, California or elsewhere. Again, the issue is fairness—a fair process is necessary to achieve a fair and just use of the public lands. That is what this legislation is all about.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 875

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF EXCESS PROPERTY TO SECRETARY OF THE INTERIOR FOR THE BENEFIT OF INDIAN TRIBES.

Section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) is amended in the first sentence by striking ''real property located'' and inserting ''real property (not including lands in the State of South Dakota that were acquired by the United States for construction and operation of reservoirs on the main stem of the Missouri River) that is located''.

OFFICE OF ATTORNEY GENERAL,
Pierre, SD, May 16, 1995.

Hon. LARRY PRESSLER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Re: Proposed bill ''To amend Section 202 of the Federal Property and Administrative Services Act of 1949 to exclude certain property in the State of South Dakota''

DEAR SENATOR PRESSLER: This letter is in relation to the bill which you plan to propose which would have the effect of excluding lands acquired on reservations in South Dakota for the construction and operation of the Missouri River mainstream reservoirs from the operation of 40 U.S.C. §483(a)(2).

I endorse the bill because it would preserve the public use and access of these lands consistent with the ruling of the United States Supreme Court in *South Dakota v. Bourland.*

Respectfully submitted,

MARK BARNETT,
Attorney General.

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY,
Washington DC, May 17, 1995.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: This replies to your letter to the Secretary of the Army, concerning the proposed rule which would authorize excessing of former trust lands at Lakes Sakakawea and Oahe to the General Services Administration (GSA) for ultimate transfer to the Department of the Interior to be held in trust for the Standing Rock Sioux Trade (SRST) and Three Affiliated Tribes (TAT).

Our legal authority for the proposed rule is based on long-standing Federal property law. The Federal Property and Administrative services Act of 1949 (the Act), the law governing all Federal real property transactions, and the Federal Property Management Regulations (FPMR), promulgated by the GSA pursuant thereto, authorize transfers of excess real property between Federal agencies.

The Act provides that each executive agency shall ''transfer excess property under its control to other Federal agencies.'' (Title 40, U.S. Code, section 483(c)) ''Excess property'' is defined by the Act as ''any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof.'' (Title 40, U.S. Code, section 472(e)).

The statute and the guidelines for utilization of excess real property, contained in the FPMR, make it clear that a Federal agency has much discretion in determining whether ''any'' property is ''not required'' for its needs. The guidelines (41 Code of Federal Regulations 101–47.201–2) also make it clear that other interests may be considered in making this determination:

''Each executive agency shall . . . survey real property under its control . . . to identify property which is not needed, underutilized, or not being put to optimum use. When other needs for the property are identified or recognized, the agency shall determine whether continuation of the current use or another Federal or other use would better serve the public interest, considering both the agency's needs and the property's location.''

While the corps has promulgated regulations which outline and address corps policy regarding property requirements for civil works projects, it is within the authority of the Chief of Engineers to make exceptions to, waive, or alter those regulations. The proposed rule is such an alteration.

This rule, which was published in the Federal Register on April 10, 1995, would expand the corps' policy regarding excess Federal property at two specific Indian reservations. Under the proposed rule, former trust lands at the Corps projects located within the SRST and TAT reservations would be considered potentially excess to project purposes if the legislatively authorized project purposes could be protected through the retention of appropriate interests in the property or the imposition of conditions. The property would be deemed excess only if three conditions were met. First, individuals who have made substantial capital investments on the property through arrangements with the Corps must be able to recover their investments prior to the excessing. Second, there must be no unreasonable impact on access to public and private land. Third, there must be no unreasonable impact on municipal and rural water supply systems.

The property that is deemed excess to the corps ultimately would be transferred to the Department of the Interior to be held in trust for the SRST and TAT. Implementation of the proposed rule would allow the corps to maintain such property or interests in property as are required for the operation of the project, while at the same time, allow for other productive and compatible uses of the land by the tribes. The Corps believes that implementation of the proposed rule would provide for the optimum use of Federal property in the public interest.

This initiative is consistent with congressional intent expressed in Public Law 103–211. That statute repealed the general land transfer provisions of the Equitable Compensation Act which provided for the return of certain corps project lands to former non-Indian and Indian owners as well as to the tribes. This repeal further provided that the corps should proceed with the Secretary of the Interior to designate excess lands and transfer them ultimately to the Department of Interior to be held in trust for the tribes pursuant to Public law 93–599. Public Law 93–599 is special legislation that recognizes the trust obligations the Department of the Interior has to Indian tribes.

In the corps' view, the proviso contained in Public Law 103–211 is a clear indication that congress wanted the corps to provide for the transfer of lands at Lakes Sakakawea and Oahe to the tribes to the extent the corps can designate property as being excess to corps needs. The Corps has developed a procedure for identifying excess property and, under the rule, would convey only such lands or interests in lands that are not necessary for the project purposes. The Corps is cognizant of the requirements of the original project authorizing legislation, and I assure you that the Corps will retain sufficient interests in the property or impose such conditions as are necessary to protect all legislatively mandated project purposes, including public access for recreation.

Thank you again for your interest in this issue. We trust that this letter addresses your concerns and that it explains why the Corps believes that the proposed rule is consistent with existing law. Their intent is to allow the public 90 days to provide comments, which will be considered carefully before publishing a final rule. I encourage you and your constituents to participate in the rulemaking process, by providing specific comments on the proposed rule.

Sincerely,

JOHN H. ZIRSCHKY,
Acting Assistant Secretary of the Army, (Civil Works)

LAND TRANSFER ANGERS SPORTSMEN GROUP

(By Kevin Woster)

Legislation being developed by U.S. Sen. Tom Daschle could threaten public access on portions of the Missouri River, the director of a state sportsmens group said Wednesday.

But a Daschle spokesman said the senator is committed to maintaining public access to the river while seeing if some surplus lands can be returned to previous owners, including American Indian and non-Indians. The issue will be discussed today beginning at 11 a.m. at the Wrangler Motel conference room in Mobridge.

Roger Pries of Pierre, executive director of the South Dakota Wildlife Federation, is angry over the discussion about returning certain public lands along the northern portion of Lake Oahe to private ownership.

''Something like that would cause a bigger uproar among a lot of sportsmen in South Dakota than trying to give the Black Hills back,'' Pries said. ''Once you give some land back to a few landowners, all the rest are going to want the same thing.''

Pries wrote Daschle a letter questioning why he wasn't notified of the Mobridge meeting. He said the proposal ''flies in the face of nearly all South Dakota citizens and sportsmen.''

Daschle staff member Eric Washburn said Wednesday that no legislation has been introduced. Daschle is working with federal, tribal, state and local officials as well as landowners and the general public to develop a fair proposal, Washburn said.

He said the meeting was advertised in the Mobridge paper and Daschle was hoping for a good turnout and a variety of suggestions.

The land issue arose years ago in a federal effort to return to the Standing Rock Sioux and Three Affiliated tribes of North Dakota certain surplus lands that had been acquired for the Oahe and Garrison reservoirs. The Standing Rock reservation is on the west bank of the Oahe Reservoir in both North Dakota and South Dakota.

Some non-Indian landowners told Daschle they wanted to regain their land and the senator said the issue should be considered, Washburn said.

Daschle's staff is gathering information to help write proposed legislation. In South Dakota, it is intended to be limited to surplus land within the Standing Rock reservation on the west side of the river, Washburn said. ''This is not at all intended to set any sort of precedent,'' he said.

LAND TRANSFER AT LAKE OAHE IS BAD DECISION

South Dakota's congressional delegation can get together on some stuff, but they're having problems agreeing on one that could make a big difference on a number of South Dakota issues.

It appears that a few high-ranking folks inside the U.S. Army Corps of Engineers, and South Dakota's two Democrats in Congress want to turn Corps land along Lake Oahe to the Standing Rock Sioux Tribe.

The single South Dakota Republican in Congress, Sen. Larry Pressler, and a whole bunch of lower-ranked folks in the Corps think it's bad to give the land to anybody.

Some Corps folks see it as a major problem in future management of the Missouri and its reservoirs.

Pressler recently sent out a letter opposing the giveaway of as much as 15,000 acres on grounds ranging from doubts that the transfer is legal to restriction of the land for hunting, fishing, livestock use, irrigation and power generation.

The problem is that under a ''politically correct'' but legally questionable transfer of land to anybody, it takes some degree of courage to argue against it.

But there are overwhelming reasons why this could create a major environmental and economic problem for South Dakotans and Americans in general. Sen. Pressler only touches on them.

In the first place, the land involved already was bought and paid for by the Corps when the dams were built. Some was bought from tribes, some from private owners. How can the government legally give land to some former owners and not others?

Second, regardless of possible cutoff of public access to these lands, the real ''public'' concern is environmental. Environmental management along the Missouri already is damaged by dozens of jurisdictions with different agendas. Imagine the difficulty if the Corps needed a few acres back for a bird breeding bank.

Third, in many cases there may be more reason to keep the land than when the dams were built. Erosion is happening. Is it good for fish, wildlife and plants or not? Shouldn't we know?

Elsewhere the government is restricting private land use for environmental reasons. Shouldn't they keep vital land they already control rather than risk confrontation with tribal officials over a fish or bird?

This position should not be seen as anti-tribal ownership. The same argument would be made if a couple of hundred ranchers were involved.

The Missouri and its recreational potential are vital to South Dakota's economic future. We already have plenty of problems promoting that priority with downstream states and with ''environmentalist'' groups that disagree with each other.

Continuing Corps ownership offers the potential, at least, for a ''systems management'' concept for the river. And that's the only sensible foreseeable future.

GIVING BACK PURCHASED LAND SETS POOR PRECEDENT

(By Brett Tschetter)

The original boundaries of the Indian reservations along the Missouri River included the land and water to the center of the Missouri River channel. Private ownership was much the same outside of the reservation boundaries.

When the Oahe Daum was formed and Lake Oahe began the fill, the Missouri River disappeared and a new body of water was developed. The new lake flooded land on both sides of the old river and eliminated that land for purposes previously utilized.

These lands were purchased by the United States government and new boundaries were set up. The land that was purchased above the high-water mark was determined to be used in later years for erosion and re-establishment of the habitat loss from the flooding.

The lands that bordered the lake were established as public lands because the government had purchased the land from the previous owners. Access to that land has been open to the public ever since the purchase.

In the case of the Standing Rock Indian Reservation, the tribe and other owners have been paid more than $20 million for the original 56,000 acres taken for the formation of the Oahe Project within the reservation boundaries.

Other tribes and private landowners were paid for the lands that were below the take-line boundaries set up by the Oahe Project.

The take-line boundary was set up on both sides of the river to makr the boundary between public and private land.

In 1975, Congress passed a law that would allow the U.S. Corps of Engineers to declare land within the projects as excess and transfer that land back to the original owner if found kthat the land was not needed for the continuation of the project.

The Corps is currently reviewing the Oahe Project and considering returning the land above the highwater mark to the Standing Rock Sioux Tribe. The land would be turned over to the Department of the Interior and held in trust for the tribe.

This would give the tribe jurisdiction over previously public land and eliminate the public uses established upon the land's purchase.

The precedence of this issue is sure to continue with other land on other reservations and private land on both sides of the river.

Those lands within the Oahe Project will not be the only ones considered. Soon after this action, the land along Lake Sharpe and other Corps of Engineers lands will be under the same scrutiny.

The lands within the take line boundaries are no more excess than water itself. The government has already had to buy more land that has eroded farther than the project originally purchased.

The government still has to solve the mitigation issue and restore 233,000 acres of habitat that was flooded. Where will that land come from if the take land is given back? A 90-day hearing period is currently under way to hear the comments of the public. You can tell the Corps of Engineers your thoughts by writing to: 215 North 17th St., Omaha. NE 68102, Attn: CEMRO-OP-IN (Mike George).

Your rights as a sportsman and as a U.S. citizen will be encroached upon if the Corps decides to return the land that has already been paid for by you and me.

CORPS NEEDS TO RECONSIDER A MORE EQUITABLE TRANSFER OF EXCESS LAND

(By James Madsen)

In February of 1994, Congress repealed portions of the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act (Public Law 102–575) regarding the return of land at Lake Sakakawea and Lake Oahe. That repeal contained language stating that the U.S. Army Corps of Engineers (Corps) should proceed with the Secretary of the Interior to designate excess land within the Fort Berthold and Standing Rock Sioux Reservation reaches of Lake Sakakawea and Lake Oahe, respectively. The land identified as excess would then be transferred to the Secretary of the Interior to be held in trust for the benefit of the tribe of Indians within whose reservation such excess real property is located, as contemplated in Public Law 93–599.

In what was called an effort to gain a more complete understanding of the public's perception of this transfer, two public meetings were held in June 1994. Both of these meetings were held in remote areas of the two reservations. Based on the comments offered as a result of those meetings, it is apparent that the Corps is again proceeding to identify and transfer these excess properties.

The lands along the Missouri were purchased indiscriminately with federal dollars

and without regard to race or nationality of the affected sellers. The attempt to restore ownership to only one segment of the population from which these lands were purchased is an affront to everyone who sacrificed their lands to the Missouri River impoundments.

Whether justified by law, this is clearly a discriminatory and political maneuver which will do more to foster prejudice in South Dakota than the late Gov. Mickelson's Reconciliation Act could have ever dreamed of overcoming.

Values for the relinquishment of hunting and fishing rights were also specifically included in the land purchases. In addition, the Supreme Court decision, South Dakota vs. Bourland, decided June 14, 1993, reaffirmed ''that in taking tribal lands for the Oahe Dam and Reservoir project and opening these lands for public use, Congress, through the Flood Control and Cheyenne River Act, eliminated the tribe's power to exclude non-Indians from these lands, and with that the incidental regulatory jurisdiction formerly enjoyed by the tribes.''

These facts should have clarified for all time the public's right to the use of these lands. However, the Corps of Engineers has taken the position that they do not exercise authority over fish and wildlife resources nor do they have the authority to delegate wildlife management. This lack of or unwillingness to assume responsibility for the hunting and fishing rights will result in the reversion of those rights with the transferred lands. Argument can be made that this will effectively nullify the Bourland decision, restrict the public's use of land and adjoining water and jeopardize the millions of dollars that the states have invested in their fisheries programs.

We should all question why the Corps of Engineers has taken such rapid steps to comply with Public Law 93–599 while for 35 years has ignored its mitigation promises of the Pick Sloan Act which required 972,000 acres of irrigation development for South Dakota.

The authority for the Corps to transfer excess property away from the taxpayers who finance their projects is inconceivable, and if allowed to progress will have far-reaching ramifications in other states.

We strongly urge everyone who has the desire to impact this decision to take action now. Instead of pitting Dakotan against Dakotan, we suggest that the Corps consider a more equitable transfer to an entity, such as the S.D. Department of Game, Fish and Parks, that will hold the land in trust for all people and will manage the land in the best interests of the public.

By Mr. EXON (for himself and Mr. KERREY):

S. 876. A bill to provide that any payment to a local educational agency by the Department of Defense, that is available to such agency for current expenditures and used for capital expenses, shall not be considered funds available to such agency for purposes of making certain impact aid determinations; to the Committee on Labor and Human Resources.

IMPACT AID LEGISLATION

● Mr. EXON. Mr. President, I introduce legislation that will ensure that Department of Defense supplemental payments are made to heavily impacted school districts like Bellevue, NE without reducing their payments from the Department of Education as is unfortunately happening now. I am pleased to have my colleague, Senator KERREY, as an original cosponsor.

The DOD supplemental payments are used to reduce 1994 impact aid payments being made now. The use of the funds is a new and in my opinion erroneous interpretation by the Department of Education as to the meaning of ''all funds available,'' which is contained in its regulation. The intent of the DOD appropriation was to provide a supplemental, not a substitute, payment to these heavily impacted school districts. The offset which is being implemented by the Department of Education makes no sense.

This legislation clears up any ambiguities.

I am hopeful that this legislation can be considered by the appropriate committee in a timely fashion. The 1994 impact aid payments are needed by these school districts to meet current budget requirements. The only payment for 1995 received so far by these districts has been the hold-harmless payment. In some cash-strapped school districts, funds are being borrowed to meet current payrolls and other obligations. Prompt passage of this legislation will help alleviate the problem for many of these districts and will ensure that the Education Department understands and carries out the will of Congress.●

By Mrs. HUTCHISON:

S. 877. A bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section; to the Committee on Labor and Human Resources.

CLINICAL LABORATORY IMPROVEMENT ACT AMENDMENTS

● Mrs. HUTCHISON. Mr. President, I introduce legislation that will overturn an expensive and unnecessary regulatory burden that contributes significantly to the high cost of health care.

In 1988, Congress passed the Clinical Laboratory Improvement Act, as a reaction to reports about laboratories that inaccurately analyzed PAP smears. CLIA 1988 was intended to address the quality of laboratory test performance. Unfortunately, the Federal regulations that flowed out of the CLIA 1988 legislation do not reflect the intent of the act and have not resulted in any documented improvement in lab results and health care. What these new regs have done is add a huge new paperwork burden on doctors. This unhappy result is a classic case of out-of-control regulations driving up medical costs.

A recent Texas Medical Association study pegs the annual cost of just the paperwork and administrative overhead added by the CLIA at an average of $4,435 per physician. This is in addition to the cost of registration, labor controls, proficiency testing, and inspection or accreditation. At a time when the entire health care industry is under pressure to control health care costs, the CLIA regulations not only subject physicians to increased administrative costs but also decrease the amount of time devoted to patient care.

Dr. McBrayer from the Texas panhandle described his experience with the CLIA inspection process as follows:

> We were written up for such monumental things as the fact that I had not signed the procedure manual for one of our lab machines. Therefore, everything done on that machine, including the training, was out of compliance. The fact that the manufacturer's rep had come and trained the staff was to no avail. Everything was out of compliance because I didn't sign it. It didn't matter that (my lab staff) had learned how to use it. That was irrelevant.

Dr. McBrayer's experience is not unique. CLIA regulations that pile on paperwork and silly penalties do not help the patient or the doctor; they simply create lots of unnecessary busywork for Government regulators.

The CLIA amendments I am introducing will reduce the burdens on physicians who perform laboratory tests in their offices, and thereby free up resources and time to dedicate to patient care. In Texas alone, of the physicians who provided testing services in their offices prior to CLIA, 27 percent have closed their office labs, and another 31 percent have dropped some types of testing, as a direct result of the CLIA 1988 reforms.

Reduced availability of testing labs has measurably affected the health care of a number of rural areas of Texas. Many physicians are concerned about the possible consequences to patients caused by the decreased access to testing or the delay in obtained results. Rather than promoting better health care quality, the regulations promulgated pursuant to the 1988 CLIA legislation have had the perverse result of diminishing quality and increasing the costs of health care delivery.

Mr. President, the CLIA 1995 amendments will not jeopardize the quality of laboratory testing. The CLIA amendments I am introducing today are aimed at ensuring that essential laboratory testing performed by physicians remains a viable diagnostic option for physicians and their patients—without the excessive rules and administratively complex requirements that currently exist. It will roll back health care cost increases caused by overregulation and protect patients in rural areas who are losing access to necessary testing and care.

I hope that all my colleagues will join me in supporting this legislation.●

By Mr. COCHRAN (for himself, Mr. LOTT, Mr. WARNER, Mr. MCCONNELL, Mr. SANTORUM, Mr. ABRAHAM, Mr. D'AMATO, Mr. BOND, Mr. PRESSLER, Mr. DEWINE, Mr. KYL, Mrs. KASSEBAUM, and Mrs. HUTCHISON):

S. 878. A bill to amend the Internal Revenue Code of 1986 to reduce mandatory premiums to the United Mine Workers of America combined benefit fund by certain surplus amounts in the fund, and for other purposes; to the Committee on Finance.

REDUCTION OF MANDATORY PREMIUMS TO THE UMWA COMBINED BENEFITS FUND

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

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

S. 878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION IN REQUIRED PREMIUMS TO COMBINED FUND BY EXCESS SURPLUS IN FUND.

(a) IN GENERAL.—Paragraph (3) of section 9704(e) of the Internal Revenue Code of 1986 (relating to shortfalls and surpluses) is amended to read as follows:

''(3) SHORTFALLS AND SURPLUSES.—

''(A) DETERMINATIONS.—

''(i) IN GENERAL.—Subject to the provisions of clause (iv), the trustees of the Combined Fund shall, as of the close of each plan year beginning on or after October 1, 1993—

''(I) determine any shortfall or surplus in any premium account established under paragraph (1) and, to the maximum extent possible, reduce or eliminate any shortfall in any such account by transferring amounts to it from any surplus in any other such account, and

''(II) determine, after any transfers under subclause (I), the aggregate shortfall or surplus in the Combined Fund, taking into account all receipts of any kind during the plan year from all sources.

''(ii) DETERMINATIONS MADE ON CASH FLOW BASIS.—

''(I) IN GENERAL.—Subject to the provisions of subclause (II) and clause (iii), any determination under clause (i) for any plan year shall be determined under the cash receipts and disbursements method of accounting, taking into account only receipts and disbursements for the plan year.

''(II) CERTAIN PRIOR YEAR SURPLUSES.—For purposes of applying subclause (I) for any plan year, any surplus determined under subparagraph (A)(i)(II) as of the close of the preceding plan year, including any portion used as provided in subparagraph (B), shall be treated as received in the Combined Fund as of the beginning of the plan year.

''(iii) DISREGARD OF TRANSFERRED AMOUNTS.—For purposes of this subparagraph—

''(I) no amount transferred to the Combined Fund under section 9705, and no disbursements made from such amount, shall be taken into account in making any determination under subparagraph (A) for the plan year of the transfer or any subsequent plan year, and

''(II) any amount in a premium account which was transferred to the Combined Fund under section 9705 may not be transferred to another account under clause (i)(I).

''(iv) SPECIAL RULE FOR 1994.—In the case of the plan year ending September 30, 1994, the determinations under subparagraph (A) shall be made for the period beginning February 1, 1993, and ending September 30, 1994.

''(B) TREATMENT OF SURPLUS.—

''(i) NONPREMIUM ADJUSTMENTS.—Any surplus determined under subparagraph (A)(i)(II) for any plan year shall be used first for purposes of the carryover under section 9703(b)(2)(C), but only to the extent the amount of such carryover does not exceed 10 percent of the benefits and administrative costs paid by the Combined Fund during the plan year (determined without regard to benefits paid from transfers under section 9705).

''(ii) PREMIUM ADJUSTMENTS.—The annual premium for any plan year for each assigned operator which is not a 1988 agreement operator shall be reduced by an amount which bears the same ratio to the surplus determined under subparagraph (A)(i)(II) for the preceding plan year (reduced as provided under clause (i)) as—

''(I) such assigned operator's applicable percentage (expressed as a whole number), bears to

''(II) the sum of the applicable percentages (expressed as whole numbers) of all assigned operators which are not 1988 agreement operators.

The reduction in any annual premium under this clause shall be allocated to the premium accounts established under paragraph (1) in the same manner as the annual premium would have been allocated without regard to this clause, and in the case of assigned operators which sought protection under title 11 of the United States Code before October 24, 1992, without regard to section 9706(b)(1)(A).

''(C) SHORTFALLS.—If a shortfall is determined under subparagraph (A)(i)(II) for any plan year, the annual premium for each assigned operator shall be increased by an amount equal to such assigned operator's applicable percentage of the shortfall. Any increase under this subparagraph shall be allocated to each premium account with a shortfall.

''(D) NO AUTHORITY FOR INCREASE.—Nothing in this paragraph shall be construed to allow expenditures for health care benefits in any plan year in excess of the limit under section 9703(b)(2).

''(E) SPECIAL RULE FOR 1995.—In the case of the plan year beginning October 1, 1994, the adjustment under subparagraph (B) shall be made effective as of such date and any assigned operator which receives a reduction in premiums under subparagraph (B) shall be entitled to a credit to the extent it has paid, taking the reduction into account, excessive premiums during plan year.''

(b) AMOUNT OF PER BENEFICIARY PREMIUM.—Paragraph (2) of section 9704(b) of the Internal Revenue Code of 1986 (defining per beneficiary premium) is amended—

(1) by striking subparagraph (A) and inserting:

''(A) $2,116.67, plus'', and

(2) by striking ''the amount determined under subparagraph (A)'' in subparagraph (B) and inserting ''$2,116.67,''.

(c) CONFORMING AMENDMENT.—Clause (ii) of section 9703(b)(2)(A) of the Internal Revenue Code of 1986 is amended by inserting ''(without regard to any reduction under section 9704(e)(3)(B)(ii))'' after ''for the plan year''.

SEC. 2. DISCLOSURE REQUIREMENTS.

(a) IN GENERAL.—Section 9704(h) of the Internal Revenue Code of 1986 (relating to information) is amended by adding at the end the following new paragraph:

''(2) INFORMATION TO CONTRIBUTORS.—

''(A) IN GENERAL.—The trustees of the Combined Fund shall, within 30 days of a written request, make available to any person required to make contributions to the Combined Fund or their agent—

''(i) all documents which reflect its financial and operational status, including documents under which it is operated, and

''(ii) all documents prepared at the request of the trustees or staff of the Combined Fund which form the basis for any of its actions or reports, including the eligibility of participants in predecessor plans.

''(B) FEES.—The trustees may charge reasonable fees (not in excess of actual expenses) for providing documents under this paragraph.''

(b) CONFORMING AMENDMENT.—Section 9704(h) of the Internal Revenue Code of 1986 is amended by striking ''(h) INFORMATION.—The'' and inserting:

''(h) INFORMATION.—

''(1) INFORMATION TO SECRETARY.—The''.

By Mr. ASHCROFT (for himself and Mr. BROWN):

S.J. Res. 36. A joint resolution proposing an amendment to the Constitution of the United States to allow the States to limit the period of time U.S. Senators and Representatives may serve; to the Committee on the Judiciary.

TERM LIMITS CONSTITUTIONAL AMENDMENT JOINT RESOLUTION

Mr. ASHCROFT. Mr. President, I rise in morning business to submit for passage a joint resolution that relates to Congressional term limits and the potential of States to have term limits and the right of the States to be involved in creating term limits for Members of the U.S. Congress.

On November 29 of last year, the Clinton administration argued before the Supreme Court of the United States that States should not have the right to limit congressional terms. Thus, the executive branch has spoken, and spoken against the right of the states and of the people to limit the number of terms individuals may serve in the U.S. Congress.

Earlier this week, on Tuesday, in a 5–4 decision entitled The State of Arkansas versus Hill, the United States Supreme Court ruled that States do not have the authority to limit the number of terms congressional representatives may serve. The judicial branch has spoken.

Both the executive branch, through the Clinton administration, and the judicial branch, have spoken against the right of States and of the people to limit the terms of individuals who represent States and districts in the U.S. Congress.

There is only one hope for the overwhelming number of people in this country who endorse term limits. If Congress extends them the opportunity to amend the United States Constitution in a way that would allow individual States to limit the terms Members of Congress may serve, then the people will have spoken.

There has been much debate about term limits in this Congress. Earlier in the year, the House of Representatives fell well short of the two-thirds majority required to forward to the people a constitutional amendment on term limits. Of the 290-vote margin required for a constitutional amendment, they only had 227 votes. What would normally be a significant majority vote in the House, was clearly not enough to make sure that States would have the opportunity to vote on a constitutional amendment permitting term limits.

Last January, I introduced a constitutional amendment that would have limited Members of Congress to three terms in the House and two terms in the Senate. Today, as a result of its defeat and of the administration's refusal to recognize the will of

the people, I am introducing a different kind of constitutional amendment. An amendment that would simply give States the explicit right to limit congressional terms. It would not mandate that any State limit the nature or extent of the terms of the individuals who represent it in the Congress, but would give the States, if they chose to do so, the right to limit the Members' terms who represent that State.

In the Arkansas case, which was announced earlier this week, Justice Clarence Thomas wrote, ''Where the Constitution is silent it raises no bar to action by the States or the people.''

I believe that he is correct. Where the Constitution does not speak, the people and their States should have a right. Unfortunately, a majority of Supreme Court Justices did not agree with Justice Thomas. In order to supply them with what they appear to require, I believe we should allow the Constitution a way to shout out ''freedom.'' This is a freedom the American people want and a freedom the American people understand is necessary.

More than 3 out of 4 people in the United States endorse the concept of term limits. They have watched individuals come to Washington and spend time here, captivated by the Beltway logic, the spending habits and the power that exists in this city. The people of America know that the talent pool in America is substantial and there are many who ought to have the opportunity of serving in the U.S. Congress. Furthermore, they know that term limits would make sure that individuals who go to Washington return someday to live under the very laws that they enact.

I believe the people in the various States of this Republic should have the opportunity to limit the terms of those who serve them in the U.S. Congress. In light of the fact that the administration has argued against term limits, the executive branch is not going to support term limits, and because the judicial branch has ruled conclusively now in the United States Supreme Court that the States have no constitutional authority, it is up to those of us who serve in the U.S. Congress to do something to extend to the people their right to speak.

This is the house of the people. This Congress is the place where the voice of the people can, and should, be heard. Let us provide another avenue where the voice of the people regarding this important matter can be heard.

It is my pleasure to announce that today I am proposing a joint resolution to be enacted or passed by a two-thirds vote of each Chamber of Congress, which merely reads:

''SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

''SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

''SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.''.

Obviously section 3 is simply the ratification clause.

It is a simple amendment to accord to the people of the United States of America a profound right—the right to make sure that the individuals who represent them in this body and in the House of Representatives are people who stay in touch with their needs and concerns, the aspirations, the hopes and the wishes of those who sent them here. The right to limit the terms of Members of the U.S. Senate and the right to limit the terms of those individuals who represent districts in our States in the U.S. House of Representatives.

Because that right has been rejected—argued against by the executive branch, the Clinton administration, and ruled against by the U.S. Supreme Court—we, the Members of the U.S. Congress, are forced to accord that right to the people. We must at least give them the opportunity to vote on that right by sending to them this joint resolution on the right of States and individuals to limit Members' terms who serve the States and the districts of those States in the U.S. Congress.

It is a profoundly important expression of our confidence in the people of this country to extend to them the right to be involved in making this judgment. I submit this joint resolution today in the hopes that democracy will continue to flourish as people have greater opportunities to be involved.

ADDITIONAL COSPONSORS

S. 768

At the request of Mr. GORTON, the names of the Senator from Idaho [Mr. CRAIG], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 768, a bill to amend the Endangered Species Act of 1973 to reauthorize the act, and for other purposes.

S. 853

At the request of Mr. GORTON, the name of the Senator from Montana [Mr. BAUCUS] was withdrawn as a cosponsor of S. 853, a bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

SENATE JOINT RESOLUTION 21

At the request of Mr. THOMPSON, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE TERRORISM PREVENTION ACT OF 1995

LIEBERMAN AMENDMENT NO. 1200

Mr. LIEBERMAN proposed an amendment to amendment No. 1199 proposed by Mr. DOLE to the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes; as follows:

Insert at the appropriate place the following new section:

SEC. . REVISION TO EXISTING AUTHORITY FOR EMERGENCY WIRETAPS.

(a) Section 2518(7)(a)(iii) of title 18, United States Code, is amended by inserting ''or domestic terrorism or international terrorism (as those terms are defined in 18 U.S.C. 2331) for offenses described in section 2516 of this title.'' after ''organized crime''.

(b) Section 2331 of title 18, United States Code, is amended by inserting the following words after subsection (4)—

''(5) the term 'domestic terrorism' means any activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State and which appear to be intended to intimidate or coerce a civilian population or to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping.''.

(c) Section 2518(7) of title 18 is amended by adding after ''Notwithstanding any other provision of this chapter,'' ''but subject to section 2516,''.

THE HANFORD LAND MANAGEMENT ACT

JOHNSTON (AND MURKOWSKI) AMENDMENT NO. 1201

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. JOHNSTON (for himself and Mr. MURKOWSKI) submitted an amendment intended to be proposed by them to the bill (S. 871) to provide for the management and disposition of the Hanford Reservation, to provide for environmental management activities at the reservation, and for other purposes; as follows:

After section 7, add the following:

''SEC. 8. COMPLIANCE WITH CERCLA, RCRA, NEPA, AND OTHER LAWS.

''(a) POLICY.—This Act shall govern all land management and environmental management activities at the Hanford Reservation and shall preempt any provision of federal, state, or local law or regulation, or any agreement entered into by the Department of Energy that is inconsistent with this Act.

''(b) PREEMPTION.—No environmental management activity conducted by the Secretary or the employees or contractors of the Secretary at the Hanford Reservation shall be subject to—

''(1) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601–9675);

''(2) the Solid Waste Disposal Act (42 U.S.C. 6901 to 6992k, also known as the Resource Conservation and Recovery Act);

''(3) any state or local law or regulation relating to environmental management activities; or

''(4) the Tri-Party Agreement between the Department, the Environmental Protection Agency, and the Washington State Department of Ecology.

''(c) VOLUNTARY COMPLIANCE.—Notwithstanding subsection (b), the Secretary may, in his discretion, comply with provisions of laws preempted by this section to the extent the Secretary determines appropriate, practicable, and cost-effective. The Secretary shall include a list of any such provisions of law in the environmental management plan submitted to Congress under this Act.

''(d) COMPLIANCE WITH NEPA.—Compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for the federal actions specified in the environmental management plan, alternatives to the specified actions, and the environmental impacts thereof for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Submission of the environmental management plan in accordance with the Act shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act and no further consideration shall be required.

''SEC. 9. LIABILITY.

''(a) CIVIL PENALTIES AND FINES.—The second sentence of section 6001(a) of the Solid Waste Disposal Act (42 U.S.C. 6961(a), relating to civil and administrative penalties and fines) is repealed.

''(b) WAIVER OF SOVEREIGN IMMUNITY.—The third sentence of section 6001(a) of the Solid Waste Disposal Act (42 U.S.C. 6961(a), relating to the waiver of immunity by the United States) is repealed.

''(c) CRIMINAL LIABILITY.—The seventh sentence of section 6001(a) of the Solid Waste Disposal Act (42 U.S.C. 6961(a)) is amended—

''(1) by striking—

'An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State solid or hazardous waste law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.'; and

''(2) by inserting the following—

'No department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State solid or hazardous waste law.'.

''(d) CONFORMING AMENDMENTS.—(1) Section 6001(c) of the Solid Waste Disposal Act (42 U.S.C. 6961(c), relating to state use of penalties and fines collected from the United States) is repealed.

''(2) Section 102(c) of the Federal Facility Compliance Act (42 U.S.C. 6961 note, relating to effective dates) is repealed.

''(e) ENVIRONMENTAL DAMAGES.—Notwithstanding section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) or any other provision of law, the United States shall not be liable for any environmental response costs, natural resource loss, or other damages arising out of federal activities at the Hanford Reservation.''

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Oversight and Investigations of the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, June 7, 1995, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing will be to examine the historical evolution of the National Environmental Policy Act of 1969, how it is being applied now in several situations, and what options are available to improve Federal decision-making consistent with the objectives of that statute.

For further information concerning the hearing, please contact James P. Beirne, senior counsel to the committee, at (202) 224–2564.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Thursday, June 15, 1995, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 871, a bill to provide for the management and disposition of the Hanford Reservation, to provide for environmental management activities at the reservation, and for other purposes.

Those wishing to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call David Garman at (202) 224–7933 or Judy Brown at (202) 224–7556.

ADDITIONAL STATEMENTS

DEFENSE BUDGET ISSUES

● Mr. GRASSLEY. Mr. President, the unmatched disbursement problem at the Pentagon has been simmering on a back burner for years.

All of a sudden, it is on the front burner, and it is boiling.

The issue is so bothersome right now because it undermines the credibility of the defense budget numbers and the case for pumping up the defense budget.

There is another article on it in the Washington Post on Tuesday.

This one zeros right in on the main problem: the lack of accountability at the Pentagon.

I ask that the article be printed in the RECORD.

The article follows:

[From the Washington Post, May 23, 1995]

THE PENTAGON'S ACCOUNTABILITY PROBLEM

(By Coleman McCarthy)

Speaking of welfare abuse—and who isn't—have you heard about the $13 billion the government handed out over the past decade but doesn't know where it went or to whom? Then there's the $6 billion spent in excess of what Congress authorized.

The welfare recipients who have taken this money and run—or lazed about or bought Cadillacs, as it is derisively said of poor people—are in a category of their own. They are military contractors. Their welfare agency is the largest of them all, the Department of Defense, which has a defense against enemies great and small except the one within: fiscal stupidity and indifference.

Some of the details of this welfare abuse were revealed May 16 before the Senate Armed Services subcommittee on readiness. It wasn't much of a hearing: just a half-day of testimony from a Pentagon undersecretary and the head of the General Accounting Office, a few senators and not much in the national media that evening or the next day.

If $19 billion in lost or untracked tax money had been dispensed by the Department of Education on mismanaged reading programs or if this were $19 billion that vaporized in the Medicare or food stamp bureaucracy, no hearing room would have been large enough to hold the media and outraged public, no time limit on hearings would have been imposed and no senator's publicist would have passed up the chance to paper Washington with the boss's deploring of bureaucrats, welfare cheats and, for sure, liberals.

But this was the Pentagon—the Department of Giveaways—and its dollar-mates, military contractors and their rent-a-general execs. Both givers and takers are on permanent dispensations from standards of competence, accountability and honesty that apply elsewhere.

At the hearings, Charles A. Bowsher of the GAO ran through what he called the Pentagon's ''serious problem of not being able to properly match disbursements with obligations.'' Pentagon overpayments, flawed contracts, duplicative business practices, shoddy or no record-keeping and multiple payroll systems have meant that the money might as well have been thrown out of airplanes for all anyone knew where it went.

On such a routine matter as travel, Bowsher reported that the Pentagon has ''over 700 processing centers, 1,300 pages of regulations and some 40 steps to get travel approval and reimbursement. The result: DOD spent over 30 percent of each travel dollar on administrative cost. By contrast, companies with the best travel processes have one disbursing center . . . and 10 or fewer process steps. These companies spend as little as 1 percent of their travel dollar on administrative costs.''

According to John Hamre, the Pentagon undersecretary and comptroller, each month the Pentagon deals with 2.5 million invoices and 10 million paychecks. He spun: ''It isn't that we have wicked people trying to screw up, it's that we have a system that's so error-prone that good people working hard are going to make mistakes.''

In the past 18 months, the hard-working good folk at the Pentagon have miscalculated Hamre's paycheck six times.

Because no wicked people are involved in the missing billions, no mention was made of firings, much less possible indictments. On the issue of ''problem disbursements,'' Hamre was the model of managerial thoughtfulness. It is too late or too burdensome to go back and see what or who went awry: ''I decided to suspend, on a one-time basis, the requirement to research old transactions.'' To DOD's contractor buddies, the message, unlike the money, was not lost: Relax, we're good people, you're good people. It was ''the system.''

Hamre reassured Congress that the era of reform is here: ''The department has refined and advanced its blueprint to eliminate its long-standing financial management problems.''

Sure. In his 1989 book ''The Pentagonists: An Insider's View of Waste, Mismanagement, and Fraud in Defense Spending,'' A. Ernest Fitzgerald wrote that the military's rote reaction to scandal is to promise reform, pledge self-policing and spout Caspar Weinberger's favorite cliché about the ''few bad apples in any barrel.'' And then go back to writing checks.

Down the hall on the same day from the hearing on the missing billions was another Senate Armed Services panel reaching for its appropriations pen—debating a $60 billion contract to build 30 attack submarines for the Navy. To attack who? Russia.

It was a day of symmetry: one Senate committee looking for phantom money and another pondering a phantom enemy.

Mr. GRASSLEY. Billions of dollars in DOD checks can't be hooked up to authorizing documents, but ''no mention is made of firings or possible indictments,'' the article says.

The Pentagon will promise reform, pledge self-policing, and get right back to writing bad checks.

This is what worries me, Mr. President.

Some of my colleagues would like to give the Pentagon some extra money, so the Pentagon bureaucrats can write more bad checks.

This is the very problem I spoke about on the floor last Friday.

Last Friday I came to the floor to express concern about a new policy being pushed by the Comptroller at the Department of Defense [DOD], Mr. John Hamre.

Mr. Hamre is proposing to write off billions of dollars of unmatchable disbursements.

Unmatchable disbursements are payments which he claims cannot be linked to supporting documentation.

In my mind, Mr. President, the plan would set a dangerous precedent and underscores the continuing lack of effective internal financial controls at the Pentagon.

My speech last Friday merely expressed concerns and raised questions about the new policy.

Well, at the conclusion of my statement, my friend from Arizona, Senator MCCAIN, and my friend from Maine, Senator COHEN, launched an unwarranted attack on what I had said.

I feel as though their criticism was misdirected. It misinterpreted and mischaracterized what I had said.

Unfortunately, I was participating in the Canada-United States Interparliamentary Group meeting in Canada and had to run to catch an airplane.

I was unable to respond to their critical remarks on Friday.

I would like to do that now.

Mr. President, I would now like to clarify for Senator COHEN'S understanding of what I actually said about the IRS. Had his recollection of what I said been clear, he would have known that he and I are in total agreement on the management flaws at IRS.

Senator COHEN seemed to think that I was holding up the IRS as some kind of model accounting bureau for Pentagon bureaucrats to copy.

That was not my point at all. Nothing could be further from the truth.

In fact, I am as frequent a critic of the way the IRS manages the peoples' money as he is.

What I was suggesting in my comments was that the plan to write off billions of dollars of unmatchable disbursements would be an insult to the taxpayers.

This is what I said:

This money was taken out of the pockets of hard working American taxpayers, and the Pentagon bureaucrats say it is just too much trouble to find out how their money was spent.

Could you imagine how the IRS would treat a citizen who claimed to have no documentation for $100,000 of income? The IRS would say: We know you got the money. You pay the tax. Period. End of discussion.

We should hold the Pentagon bureaucrats to the same standard that the IRS holds the taxpayers to. The DOD should have to play by the same rules imposed on the taxpayers.

We should tell the Pentagon bureaucrats: We know you received $10 billion in appropriations. Now, how did you spend it? No extra money until we get the answer.

Mr. President, this is the point I was trying to make.

The IRS is relentless and thorough in collecting tax money from the people.

I want the Pentagon bureaucrats to be just as relentless and just as thorough in controlling and accounting for the expenditure of the peoples' money as the IRS is in collecting it.

I would now like to turn to Senator MCCAIN's remarks.

I take strong exception to what was said by the Senator from Arizona.

Mr. MCCAIN suggested that I ''enjoy savaging'' the Pentagon for shortcomings and deficiencies but never offer ''viable solutions.'' First of all, I do not remember ever making a critique of DOD's management without offering a solution, contrary to my friend's flippant remark.

On Friday, I made two very specific recommendations for handling the new policy.

I would like to restate those two recommendations. I said:

We in the Congress should not approve this plan until two stringent conditions are met:

Number 1: Those responsible must be held accountable for what has happened; Heads must roll.

Number 2: A new DOD policy should be put in place that specifies: Effective January 1, 1996, all DOD disbursements must be matched with obligations and supporting accounting records before a payment is made.

Mr. President, as I said on Friday, these two recommendations will help to strengthen and reinforce section 8137 of the fiscal year 1995 DOD Appropriations Act—Public Law 103–335. Senator STEVENS acknowledged my proposed solution in a hearing on this issue May 23 before his Defense Subcommittee.

Section 8137 was a carefully crafted piece of legislation designed to correct the unmatched disbursement problem at the Pentagon.

It was a phased approach I developed in close cooperation with the DOD Comptroller, Mr. Hamre.

Section 8137 specifies that by July 1, 1995, a disbursement in excess of $5 million must be matched with appropriate accounting documents before the payment is made.

Then, under the law, the mandatory matching threshold is lowered to $1 million on October 1, 1995.

My amendment was adopted by the Senate on August 11, 1994.

The next day I received a warm, handwritten thank you note from Mr. Hamre. I would like to read it. I quote:

I would like to thank you for sponsoring the amendment requiring DOD to match disbursements with accounting records prior to actual disbursement of funds. I especially appreciate your willingness to work with me to adopt your amendment to ensure we could implement it in the least disruptive manner. You will be very proud of the long-term benefit it will produce in our business practices.

Mr. President, to my friend from Arizona, I say: I have been working hard to fix this problem. I do not claim to have the answer but I am searching for it.

And the recommendations I made on Friday are the logical next step to the phased approach contained in section 8137 of the law.

They would lower the threshold to zero, effective January 1, 1996.

Let me also say to my friend from Arizona that my recommendations are fully consistent with current DOD policy.

To back up that point, I would like to quote from Mr. Hamre's letter of May 5, 1995, to Senator GLENN where the plan to write off unmatchable disbursements was first revealed to the public.

I quote from the Hamre letter: ''We have adopted a policy that we will not disburse funds until we pre-match them to the accounting records.''

That is recommendation No. 2 in Friday's speech.

Mr. President, I say to my friend from Arizona that I have been working diligently to fix the problem.

I have already helped to develop one viable solution and am working on another.

Right now, I am working with the Comptroller General, Chuck Bowsher, to find a more comprehensive solution to the Pentagon's accounting problems.

Mr. President, sometimes in the heat of debate, our arguments and proposed solutions fall on deaf ears.

I would caution my friend from Arizona to listen to the arguments before blindly dismissing them.

Unless that is done, the credibility of one's opposition is lost.

Mr. President, I would like to add one new idea to the discussion.

I do not believe the use of the word ''writeoff'' accurately describes what DOD is proposing to do.

Normally, the word ''writeoff'' is used to describe a procedure for canceling from accounts a legitimate business loss.

What Mr. Hamre is proposing to do is write off billions of dollars of unauthorized payments.

A payment that cannot be linked to supporting documentation is an unauthorized payment. It may not be legitimate.

Without documentation, we do not know how the money was used.

That is my concern, Mr. President.

Mr. President, Pentagon bureaucrats have an unblemished record of mismanaging the peoples' money.

Now, is it smart to give a bureaucratic institution like the Pentagon that cannot control and account for the use of public money more public money—as some of my colleagues propose?

DOD should not get any extra money until it cleans up the books.

More money is not the answer. Better management is.●

A TRIBUTE TO COMMAND SGT. MAJ. WILLIAM H. ACEBES ON HIS RETIREMENT FROM THE ARMY

● Mr. NUNN. Mr. President, today I want to congratulate Command Sgt. Maj. William H. Acebes on the occasion of his retirement from the U.S. Army.

Command Sergeant Major Acebes began his Army career 30 years ago when he completed basic training at Fort Polk, LA. I am pleased to note that he completed his advanced individual training in my home State of Georgia, at Fort Gordon. Since then, he has served in virtually every noncommissioned officer leadership position.

Overseas, Command Sergeant Major Acebes has served numerous tours of duty with United States Forces in both Europe and Asia. In Germany he was assigned to the Berlin Brigade and later, to the 1st Battalion, 10th Special Forces Group (Forward) at Bad Toelz. During the Vietnam war, he served with the 173rd Airborne Brigade and was an advisor with the United States Army Military Assistance Command. His most recent overseas assignment was in South Korea, where he was the command sergeant major of the 2nd Infantry Division.

Bill Acebes' stateside assignments have included serving as the first sergeant of Headquarters Company and the command sergeant major of the 1st Battalion (Ranger), 75th Ranger Regiment. Also, he served as the battalion command sergeant major for the 1st Battalion, 64th Armor Regiment, 2d Brigade, 24th Infantry Division, at Fort Stewart, Georgia. Since 1992, he has served as the U.S. Army Infantry Center Command Sergeant Major at Fort Benning, GA.

During his 30-year Army career, Bill Acebes has received numerous awards and decorations in recognition of his exemplary service to the United States. These awards and decorations include the Legion of Merit, the Bronze Star, the Meritorious Service Medal, the Army Commendation Medal, the Army Achievement Medal, and the Vietnam Cross of Gallantry.

I know of no soldier who sought more tough, demanding assignments than Bill Acebes. I also know of no soldier who has spent more time with the infantry—with infantry soldiers and families, than Bill Acebes. Whenever our country called, over a 30-year period, Command Sergeant Major Acebes answered. His leadership and talents will be missed.

Mr. President, I ask our colleagues to join me in thanking Command Sergeant Major William H. Acebes for his distinguished service to the Army and people of the United States.●

COMMERCIAL SPENT NUCLEAR FUEL STORAGE

● Mr. HOLLINGS. Mr. President, I would like to commend the Senator from Alaska [Mr. MURKOWSKI] for the statement yesterday on the need to develop a timely solution for the management of spent nuclear fuel from the Nation's 109 commercial nuclear power plants.

As the new chairman of the Energy Committee, Senator MURKOWSKI has already assumed a leading role in examining America's policy on high-level radioactive waste management and I appreciate the chairman's ongoing commitment to change that policy to ensure that we continue to make progress in a program so vital to the national interest.

Mr. President, the United States has struggled to fashion a workable policy on high-level radioactive waste disposal since the Congress passed the Nuclear Waste Policy Act of 1982.

In 1987, President Ronald Reagan signed amendments to that act to direct the Department of Energy to study Yucca Mountain in Nevada as a likely repository site. A cadre of world-class scientists have been conducting first-of-a-kind experiments at Yucca Mountain to determine if the site is suitable for the ultimate disposition of spent nuclear fuel from civilian nuclear reactors a well as defense high-level radioactive waste.

Electric consumers have committed $11 billion since 1983 to finance these studies, a total that includes $563 million collected from consumers of nuclear electricity generated in South Carolina. Unfortunately, the year 2010 is the earliest possible date that a repository might be ready to accept spent fuel.

In the meantime, nuclear power plants across the country are running out of capacity to store spent fuel. By 1998, 26 plants will have exhausted existing capacity to store spent fuel, including the Oconee and Robinson plants in South Carolina.

In addition to designating Yucca Mountain, the Nuclear Waste Policy Act made the Federal Government responsible for taking title to spent nuclear fuel beginning in 1998.

In order to meet its obligations, therefore, the Federal Government must now develop a temporary storage facility for spent fuel from the Nation's nuclear power plants. In just 3 years DOE is scheduled to assume responsibility for the spent nuclear fuel from commercial nuclear power plants. It must begin planning now to build and operate a facility to fulfill that obligation.

Legislation introduced in both the Senate and House would develop an integrated approach to spent fuel management, including the construction and operation of a single Federal facility to store spent fuel until a permanent solution is available. Legislation in both Chambers identifies the sensible location for such a storage facility—the Nevada test site.

This Federal facility is the most logical location for such an interim site. It borders Yucca Mountain, a remote, unpopulated, and arid location in the Nevada Desert. Moreover, the site is on land that has been dedicated to underground nuclear testing for more than 40 years, and thus appropriately dedicated to a project like this one.

Building a central storage facility at the Nevada test site does not prejudge the question of whether Yucca Mountain is suitable, but there are tremendous advantages to locating it there. Among the most appealing is ease of transportation of the spent fuel from storage facility to repository.

Building a central storage facility that is operating by 1998 and a repository by 2010 will save electric consumers $5 billion over the life cycle of the waste management program. These cost savings will be further enhanced, primarily through ease of transportation, if the storage facility is located near the repository site.

Mr. President, the time has come to address the problems that have plagued the Department of Energy's nuclear waste management program. We can take the first step this year by authorizing and using funds already contributed by electricity consumers to develop a central storage facility in Nevada.●

DESECRATION OF THE U.S. FLAG

● Mr. HEFLIN. Mr. President, I am pleased to submit for the RECORD the memorializing resolutions from the States of Washington, Hawaii, and Oregon calling on the Congress to pass an amendment to the Constitution that protects the United States flag from desecration. I think these resolutions are a wonderful reminder that the movement and support for an amendment to protect the flag begin at the grassroots level. Up to this point, 49 States have passed memorializing resolutions in support of a flag protection amendment. I ask unanimous consent that the texts of these resolutions be printed in the RECORD.

STATE OF WASHINGTON: SENATE JOINT MEMORIAL 8006

Whereas, Although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn

limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate; and

Whereas, Certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred values of others; and

Whereas, There are symbols of our national soul such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders, which are the property of every American and are therefore worthy of protection from desecration and dishonor; and

Whereas, The American Flag to this day is a most honorable and worthy banner of a nation that is thankful for its strengths and committed to curing its faults, and remains the destination of millions of immigrants attracted by the universal power of the American ideal; and

Whereas, The law as interpreted by the United States Supreme Court no longer accords to the Stars and Stripes that reverence, respect, and dignity befitting the banner of that most noble experiment of a nation-state; and

Whereas, It is only fitting that people everywhere should lend their voices to a forceful call for a restoration of the Stars and Stripes to a proper station under law and decency;

Now, therefore, Your Memorialists respectfully pray that the Congress of the United States propose an amendment of the United States Constitution, for ratification by the states, specifying that Congress and the states shall have the power to prohibit the physical desecration of the flag of the United States; be it

Resolved, That certified copies of this Memorial be immediately transmitted by the secretary of state to the president and the secretary of the United States Senate, to the speaker and the clerk of the United States House of Representatives, and to each member of this state's delegation to the Congress.

STATE OF HAWAII, HOUSE CONCURRENT RESOLUTION 142

Whereas, the flag of the United States is the ultimate symbol of our country and it is the unique fiber that holds together a diverse and different people into a nation we call America and the United States; and

Whereas, as of May, 1994, forty-three states have memorials to the United States Congress urging action to protect the American flag from willful physical desecration and these legislations represent nearly two hundred and twenty nine million Americans, more than ninety percent of our country's population; and

Whereas, although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate; and

Whereas, certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of other citizens; and

Whereas, there are symbols of our national soul such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders, which are the property of every American and are therefore worthy of protection from desecration and dishonor; and

Whereas, the American Flag is a most honorable and worthy banner of a nation which is thankful for its strengths and committed to curing its faults and remains the destination of millions of immigrants attracted by the universal power of the American ideal; and

Whereas, the law as interpreted by the United States Supreme Court no longer accords to the Stars and Stripes the reverence, respect, and dignity befitting the banner of that most noble experiment of a nation-state; and

Whereas, it is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes of a proper station under law and decency; and

Whereas, as increasing number of citizens, individuality and collectively, in Hawaii and throughout the nation, have called for action to ban the willful desecration of the American flag; and to ignore the effect of this decision would be an affront to everyone who has been committed to the ideals of our nation in times of war and in times of peace; now, therefore, be it

Resolved by the House of Representatives of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, the Senate concurring, That this body respectfully requests each member of Hawaii's congressional delegation, with the specific purpose of urging the Congress of the United States to propose an amendment to the United States Constitution, for ratification by the states, providing that Congress and the states shall have the power to prohibit the willful physical desecration of the flag of the United States; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to each member of Hawaii's congressional delegation.

OREGON LEGISLATIVE ASSEMBLY, SENATE JOINT MEMORIAL 1

Whereas although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate; and

Whereas certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and rights of expression and sacred values of others; and

Whereas there are symbols of our national soul such as the Washington Monument, the United States Capitol and memorials to our greatest leaders that are the property of every American and therefore worthy of protection from desecration and dishonor; and

Whereas the American flag is a most honorable and worthy banner of a nation thankful for its own strengths, committed to curing its faults, and the continued destination of millions of immigrants attracted by the universal power of the American ideal; and

Whereas the law, as interpreted by the United States Supreme Court, no longer accords to the Stars and Stripes that reverence, respect and dignity befitting the banner of that most noble experiment of a nation-state; and

Whereas it is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes of a proper station under law and decency; now, therefore, be it *Resolved* by the Legislative Assembly of the State of Oregon:

(1) The Congress of the United States is memorialized to promptly propose an amendment to the United States Constitution specifying that Congress and the several states shall have the power to prohibit the physical desecration of the flag of the United States of America.

(2) A copy of this memorial shall be sent to the President of the United States and to each member of the Oregon Congressional Delegation.●

RUSSIAN SALES OF SUBMARINES TO IRAN AND CHINA

● Mr. D'AMATO. Mr. President, the sale of Russian submarines to Iran and the People's Republic of China have the potential to significantly jeopardize regional stability and pose a grave threat to international trade. The United States must take a firm stand on this issue.

Iran, which borders the Straits of Hormuz, has obtained two and is expected to take delivery of a third Russian *Kilo* class submarine. These submarines, particularly when armed with the wake-homing torpedoes that the Iranian's have tested, are optimized to cut off the passage of merchant shipping through the straits. Roughly 50 percent of the oil in international trade passes through these straits. Any interruption of this supply would result in an international energy crisis, and a sustained interruption would have dramatic economic consequences.

We must ask ourselves, ''why are the Iranian's developing this capability?'' Could the answer be that they wish to close the straits? Clearly, it is not in our national interest to allow a country which sponsors international terrorism to do this, holding the world's oil supply and the key to the global economy hostage.

The People's Republic of China is also buying modern Russian submarines. For what purpose? Their lawless efforts to seize control of the Spratley Islands already indicate an intent to control the South China Sea. Are these submarines intended to bolster this effort or are they intended to threaten our friends in Taiwan?

As an island nation, Taiwan is desperately dependent on the free passage of shipping. If this were to be threatened or cut off, the Taiwanese economy would flounder. Would we, should we, allow this to happen? I think not. Taiwan is our sixth largest trading partner and, unlike the People's Republic of China, a democratic state.

Since 1776 the United States has supported the freedom of navigation and must continue to do so. Twice in this century a country with a relatively small submarine force caused havoc with the merchant shipping of free nations. This can not happen again.

The United States does not build submarines for foreign nations and neither should the Russians. We must increase our efforts to discourage the Russians from proliferating this, as well as other, dangerous technology and we must vigorously maintain our supremacy in antisubmarine warfare capabilities. Furthermore, we must make it absolutely clear to Iran and the People's Republic of China that the United

States can not, and will not, tolerate any action which impacts regional stability by threatening the merchant trade of peaceful nations.●

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

24TH ANNUAL POLISH HERITAGE FESTIVAL

● Mr. BRADLEY. Mr. President, our country is a remarkable mosaic—a mixture of races, languages, ethnicities, and religions—that grows increasingly diverse with each passing year. Nowhere is this incredible diversity more evident than in the State of New Jersey. In New Jersey, schoolchildren come from families that speak 120 different languages at home. These different languages are used in over 1.4 million homes in my State. I have always believed that one of the United States greatest strengths is the diversity of the people that make up its citizenry and I am proud to call the attention of my colleagues to an event in New Jersey that celebrates the importance of the diversity that is a part of America's collective heritage.

On June 4, 1995, the Garden State Arts Center in Holmdel, NJ, will begin its 1995 Spring Heritage Festival Series. This Heritage Festival program will salute some of the different ethnic communities that contribute so greatly to New Jersey's diverse makeup. Highlighting old country customs and culture, the festival programs are an opportunity to express pride in the ethnic backgrounds that are a part of our collective heritage. Additionally, the Spring Heritage Festivals will contribute proceeds from their programs to the Garden State Arts Center's cultural center fund which presents theater productions free-of-charge to New Jersey's school children, seniors, and other deserving residents. The Heritage Festival thus not only pays tribute to the cultural influences from our past, it also makes a significant contribution to our present day cultural activities.

On Sunday, June 4, 1995, the Heritage Festival Series will open with the 24th Annual Polish Heritage Festival. Chaired by Stanley Kostenowcyk, this year's event commemorates the end of World War II and pays tribute to the bravery of American and Polish soldiers in their war efforts. A special commemorative exhibition on the Polish people's involvement in World WAr II will be held in the Robert Meyner Reception Center and will honor the memory of the 6 million Poles that disappeared during this dark period in world history. The festival will also feature food, crafts, music, and traditional Polish folk dancing as well as an outdoor liturgy concelebrated by Rev. Msgr. Joseph Marjanczyk, pastor of Our Lady of Mount Carmel R.C. Church of Bayonne, NJ, and Rev. Eugene Koch, pastor of St. Theresa's R.C. Church in Linden, NJ. Immediately following the outdoor liturgy will be a program featuring many talented Polish artists including: Lenny Gormulka and The Chicago Push; the Jimmy Sturr Orchestra with Carl Buda directing the St. Cecilia's Choir; Raymond Wojcik conducting the Garden State Philharmonic Orchestra; the pianist Jacek Zganiacz; the Hejnal Polish-American Dancers; and Emcee Barry Kaminski. On behalf of all New Jerseyans of Polish descent, a group that numbers over 400,000 people, I offer my congratulations on the occasion of the 24th Polish Heritage Festival.●

SET A GOOD EXAMPLE PROGRAM

● Mr. JOHNSTON. Mr. President, I would like to take this opportunity to recognize two elementary schools from Shreveport, LA, that placed in the top five in the 1994–95 Set a Good Example Contest sponsored by the Concerned Businessmen's Association of America. Westwood Elementary School placed first and Lakeshore Elementary School placed fifth in this competition, which is based on the idea that teaching children common sense values and encouraging them to serve as role models for their peers is a workable solution for preventing juvenile crime, drug abuse, illiteracy, and delinquency. More than 7,500 schools and close to 7 million students have participated in this innovative and visionary program since its creation in 1984.

The Set a Good Example Contest is unique because students design their own program to improve their school environment. The students at Westwood Elementary chose the theme ''Westwood Respects All,'' and decided to strive for a 95-percent improvement in discipline and behavior schoolwide. Lakeshore Elementary students decided on the concept ''Tell the Truth,'' and also emphasized stopping violence both in school and at home. The children from these two Louisiana schools organized several impressive activities to educate themselves and others on the dangers of gangs, drugs, and violence. The initiative and creativity they showed in organizing food drives, encouraging recycling, decorating their schools with antidrug and antiviolence slogans, and improving the environment are worthy of our admiration and commendation.

I am pleased and proud to acknowledge this fine accomplishment by the Westwood and Lakeshore schools. These students, who will be the leaders of tomorrow, have shown dedication to bettering themselves and their environment. If this type of involvement is any indication of the way America's youth will address issues in the future, then we should not worry, for we are headed in the right direction. The bold stand against violence and the endorsement of positive values like honesty and discipline by these students should service as an outstanding example and inspiration for their peers. I salute the students and faculty of the Westwood and Lakeshore elementary schools and hope that the youth of our Nation will follow in your footsteps.●

TRIBUTE TO VICE ADM. THOMAS J. KILCLINE, USN (RETIRED)

● Mr. MCCAIN. Mr. President. Today I rise to pay tribute to my longtime friend and mentor, Vice Adm. Thomas J. Kilcline, USN (Retired). We served together in the Navy's legislative affairs office in the late 1970's and over the intervening years I have grown to respect him as an insightful leader, dedicated humanitarian, and sage counselor. On the eve of his retirement from his position as President of the Retired Officers Association, I considered it extremely appropriate to formally recognize him for his more than 50 years of service to this Nation.

Tom Kilcline was born in Detroit, MI, on December 9, 1925. He enlisted in the Navy in 1943, graduated from the U.S. Naval Academy in 1949, and was designated a naval aviator in November 1950, after which he flew with VR–5 until 1953.

Admiral Kilcline attended the Naval Postgraduate School and later Massachusetts Institute of Technology, where he earned a masters degree in aeronautical engineering in 1956.

He then joined Heavy Attack Squadron Nine, serving on the U.S.S. *Saratoga* (CV–60) and U.S.S. *Ranger* (CV–61). In 1959, he was assigned to the staff of the Commander Sixth Fleet. He completed the command and staff course at the Naval War College and in 1962 completed test pilot school. He was later assigned as coordinator of test programs for all attack aircraft at the Naval Air Test Center.

In January 1965, Tom reported to Heavy Attack Squadron Eleven (VAH–11) aboard the U.S.S. *Forrestal* (CV–59). He commanded an RA5C squadron deployed to the Vietnam theater. He returned to the staff of the Commander Naval Air Force, U.S. Atlantic Fleet in August 1967, and a year later was assigned as operations officer and later executive officer aboard the U.S.S. *Ticonderoga* (CVA–14) during combat operations off Vietnam. He then became program manager for acquisition and support of the RA–5C aircraft, Naval Air Systems Command. In October 1970, he was named Director of Liaison with the House of Representatives under the Navy Office of Legislative Affairs.

From August 1972 until May 1974, Tom was commanding officer, Navy Air Station, Patuxent River, MD. He was then assigned as director of aviation officer distribution, aviation captain detailer and later, Assistant Chief of Naval Personnel, Officer Distribution and Education. In August 1975, he assumed command of Naval Base Subic Bay with duties as Commander in Chief Pacific Representative in the Philippines and Commander U.S. Naval Forces, Philippines. He became Chief,

Legislative Affairs in February 1978 and in July 1981, was assigned as Commander Naval Air Forces, U.S. Atlantic Fleet. He retired from the Navy in 1983.

His awards include the Distinguished Service Medal; the Legion of Merit with three gold stars; the Bronze Star; the Air Medal; and awards from the Governments of the Philippines and the Republic of Vietnam.

Following retirement, Admiral Kilcline formed a military and congressional consulting firm which he disestablished when he became the Retired Officers Association president in December 1986.

Through his stewardship, the Retired Officers Association played a pivotal role in convincing Congress to enact several legislative initiatives to maintain readiness and improve the quality of life for all members of the military community—active, reserve, and retired, plus their families and survivors. I will not describe all of his accomplishments, but will briefly focus on a few to illustrate the breadth of his concern for military people of all uniforms.

One particularly noteworthy effort resulted from his unwavering commitment to affordable health care for the military community. In 1988, after assessing the onerous and ill-advised seniors' only surtax, associated with the Medicare Catastrophic Coverage Act, he worked closely with me and other Members of Congress and threw the full resources of his organization behind the successful effort to repeal that act—a feat that has become a case study in grassroots activism. Likewise, under his direction, the Retired Officers Association supported strengthening the underpinning of the Montgomery GI bill and thus provided a solid foundation for our Nation's future leaders by placing the wherewithal for a college education on the horizons of more than 1,000,000 young men and women who otherwise might have been denied that opportunity.

Finally, he was ever mindful of the adverse effects on morale and retention caused by broken commitments and inadequate compensation and forcefully championed the causes of fairness and equity. His leadership efforts to preserve the long-standing commitment to lifetime care in military health care facilities, to fight for retiree cost of living adjustments, and to provide adequate military pay raises are some of his other significant contributions. Most recently, he fought for and won the battle for a transition plan that provides a comprehensive benefits package for those personnel and their families who are forced out of active service as a result of the force structure drawdown that, hopefully, is in its final stages.

It's also most appropriate to recognize Tom's wife of 44 years, the former Dornell Thompson of Pensacola, FL. Dornell has stood steadfastly at his side, championing the cause of military people, particularly their families and survivors, everywhere. For her vital contribution, we owe her a debt of gratitude.

I wish to extend to this great American and dear friend a grateful nation's thanks, our best wishes for a long life, and fair winds and following seas.●

AMERICAN JEWISH COMMITTEE

● Mr. KERRY. Mr. President, I rise today to recognize the American Jewish Committee for its contributions to the ongoing debate on the appropriate role for our Nation in international affairs.

Through a series of advertisements in national and local publications in recent days, the American Jewish Committee has engaged in a worthy education effort to broaden public understanding of, and support for, America's investment in its leadership role in world affairs.

This effort could not be more timely. The budget resolutions that have been adopted in this and the other body in the past week, along with measures approved by the respective authorizing committees to reorganize international affairs functions and sharply reduce foreign aid spending, could profoundly compromise our ability to protect America's vital economic, political, and strategic interests around the world.

Underlying these shortsighted actions, I fear, is the common assumption that the public simply does not and will not support expenditures for international affairs. Indeed, public opinion surveys have consistently shown weak support for foreign aid. But they also have revealed a general and significant misunderstanding of the Nation's international affairs programs—including an overestimation, by a factor of 15 in one recent survey, of the portion of the Federal budget devoted to foreign aid.

That profound misunderstanding of the cost, and I submit the cost-effectiveness, of American engagement in international affairs must be confronted and reversed; it must not be allowed to dictate or excuse a retreat from American leadership.

It is to raise awareness of the value and necessity of America's continued international engagement, and to place the current debate on foreign aid and related programs in the proper context of America's leadership role and the protection of America's interests, that the American Jewish Committee has launched its current public education effort, I commend AJC's message to my colleagues, and hope that it gains the serious attention it so clearly merits.

Mr. President, I ask that the text of the American Jewish Committee's ad, as it appears in the current issues of the Washington Post weekly edition and Roll Call, be printed in the RECORD.

The text follows:

AMERICAN LEADERSHIP IN WORLD AFFAIRS IS EXPENSIVE UNTIL YOU CONSIDER THE ALTERNATIVE

During this century, America has played a proud and unparalleled role in the leadership of formal alliances and informal coalitions to vanquish tyrants, extend human freedom, and craft the rules and institutions of commerce and peace.

The cost of our leadership in world affairs has been high; we honor the profound sacrifices made in the exercise of that leadership. At the same time, we know that, for the realization of our fundamental principles and the welfare of our country, the cost of withdrawal from leadership—or of its assumption by other nations—would have been intolerable. Through two world wars and five decades of post-war conflict between the Soviet bloc and the Western alliance, America's role has been central and irreplaceable. In the uncertainties and conflicts that lie ahead, we foresee no diminution—indeed, a likely extension—of the call for American leadership in international affairs.

It is in the interest of human progress, and the particular interest of our own nation, that America continue to answer that call to leadership. In fact, America's national and international interests are mutually reinforcing. In the developed world, American commitment to free trade in goods and ideas, and to the entrenchment and protection of democracy, strengthens our and our partners' economies, the well-being of our people, and our political and strategic infrastructures. In the developing world, American commitment to human rights and to the relief of human suffering, to the creation and sustenance of democratic institutions, and to defense against extremism, ultranationalism and expansionism, is not only morally compelling but yields alliances, markets and regional security regimes vital to American economic and political interests.

The American Jewish Committee, founded in 1906 in part to spur U.S. action against the oppression of Jews in czarist Russia, has consistently advocated our nation's leadership in world affairs. A participant in the Versailles conference of 1919 and consultant to the American delegation to the San Francisco conference that chartered the United Nations in 1945, the American Jewish Committee has long recognized the singular role of the United States as a defender of freedom, protector of human rights, and proponent of peaceful relations between states.

As Americans, inheritors of the world's longest and most successful experiment in constitutional democracy, we know the provenance of our freedoms—the struggle to found a nation free of religious persecution, intolerance and political oppression; we know, as well, that our nation's struggle for freedom is incomplete and ongoing. As Jews, inheritors of an ancient and noble tradition of laws and culture, whose communities in other lands have been decimated by political and religious decree, we cherish the American ideal of liberty, a beacon of hope to all the world.

For these reasons—America's role and investment in shaping the modern world; the dangers of alternative or absent leadership; the economic, political and strategic benefits of active international engagement with both the developed and developing worlds; and the history, virtue and motivating power of the American ideal—we commend our Government's continued dedication to the projection of American leadership in world affairs. To that end, we urge the following:

Vigorous resistance to neo-isolationist calls for American withdrawal or retreat from international commitments. American

economic, political and strategic interests cannot be isolated or insulated from world affairs; their successful engagement in world affairs are America's guarantor of prosperity and peace.

An understanding of the cost-effectiveness of U.S. foreign aid and a strong commitment to maintain it as an efficient instrument of foreign policy. Reduced in real-dollar terms in recent budgets to less than 1 percent of Federal spending—and the lowest, as a percentage of GNP, among major industrialized nations—U.S. foreign aid serves to safeguard America's political and economic interests abroad and spurs the development of new markets, generates American jobs (with 3 out of 4 aid dollars spent at home), and helps ease foreign crises that could escalate into instability and military conflict.

Continued U.S. leadership in efforts to resolve regional conflicts in areas of vital economic, political and strategic interest; to bar the proliferation of weapons of mass destruction; and to combat international terrorism that threatens America, Israel, moderate Arab states, and the values and institutions of modern civilization. America's role in the pursuit of Arab-Israeli reconciliation, and in the development of regional economic and security arrangements to promote Middle East peace, has been, and continues to be, indispensable.

Continued U.S. leadership, active participation, and appropriate investment in multilateral and bilateral institutions, including international lending agencies, trade and health organizations, and the United Nations. These institutions are valuable tools through which the United States, with vital security and economic interests across the globe, seeks global consensus on issues of national importance.

The protection of international human rights as an essential component of U.S. foreign policy, reflecting America's deepest values while advancing its interests in a safer world. Indeed, at the founding conference of the United Nations 50 years ago, it was American Jewish Committee representatives Joseph Proskauer and Jacob Blaustein who argued persuasively that governments which respect human rights in their own countries are less likely to upset regional and global stability.

This message, one of a series on public policy issues, was adopted by the Board of Governors of the American Jewish Committee at its 89th Annual Meeting in Washington, D.C., on May 3, 1995.

The American Jewish Committee, Robert S. Rifkind, President; David A. Harris, Executive Director.●

SENATOR THURMOND RECEIVES HONORARY DEGREE

● Mr. INOUYE. Mr. President, on Saturday, May 20, 1995, Senator STROM THURMOND received the honorary degree of doctor of medical jurisprudence honoris causa during the 16th commencement ceremony of the Uniformed Services University of the Health Sciences [USUHS].

Our Nation's only military medical school recognized the President pro tempore of the U.S. Senate and the chairman of the Senate Armed Services Committee for his ''uncompromising commitment to excellence in military service and in particular, to military medicine.'' Through his vision and efforts, 2,148 USUHS physicians have been commissioned into the uniformed services; and, of those fine, uniformed doctors, over 81 percent remain on active duty in the service of their Nation beyond their initial service obligation.

Senator THURMOND'S leadership and foresight played a major role in the conception of USUHS. Through his consistent support and recognition of the importance of pre-war and wartime knowledge of military medical requirements, the Congress established USUHS and the scholarship program [HPSP] as complementary sources of accession for military physicians. In 1972, Public Law 92–426 established the HPSP program to be a flexible source for the quantity of doctors required by the Armed Forces. USUHS was established to provide a corps of military medical officers—presently 14 percent of the total physician force—who would provide continuity and leadership to the medical services.

It was Senator THURMOND's sound and correct judgment that without continuity and leadership, the lessons learned in military medicine from past wars are forgotten and must be relearned at the expense of the fighting forces. Senator THURMOND has continuously understood that it is essential for military medical readiness to maintain enough physicians in the military services to ensure that the lessons learned in military medicine during both combat and peacetime will be safeguarded. Because of his tenacity, the USUHS military medical personnel, faculty, active duty alumni and programs continue to serve as the institutional memory for military medicine.

During four major assaults attempting to close USUHS, Senator THURMOND's fortitude and mettle have provided the steadfastness of purpose to thwart those who do not understand that there is a vast difference between a civilian doctor in the military and a military physician. Senator THURMOND's military physicians have demonstrated immediate deployability and played key roles in numerous military and humanitarian operations at home and abroad, including: Operation Just Cause (Panama); Operations Desert Shield and Desert Storm; Operation Provide Comfort (Kurdish relief); Somalia, Bosnia, Croatia, and Hurricanes Hugo and Andrew relief operations; the 1993 Midwestern flood relief; the operations to restore democracy in Haiti, and in operational planning support provided in response to the 1995 bombing of the Federal building in Oklahoma.

Without a doubt, through the passage of time, the immediate deployability of USUHS physicians to military and humanitarian operations, the extraordinary retention rates of the USUHS graduates, the testimony of military medical combat experts during congressional hearings in March and April of 1994, the exceptional support from both military and civilian medical leadership and associations, the documentation from economic analyses that verifies USUHS is a wise investment for the Federal Government, and the renewed recognition of the need for military medical readiness in support of those whom we send into harm's way, have all combined to illuminate the foresight and leadership of Senator STROM THURMOND. He has truly proven himself to be a visionary for the special needs of military medicine.

I sincerely thank Senator THURMOND for his magnificent service to the Senate and to the Nation and join in the standing ovation of the 2,000 attendees at the USUHS commencement ceremony in recognition of his outstanding leadership.

I ask to have printed in the RECORD the citation conferring the honorary degree upon Senator THURMOND.

SENATOR JAMES STROM THURMOND, DOCTOR OF MEDICAL JURISPRUDENCE HONORIS CAUSA

Senator Thurmond, over 70 years ago you unselfishly answered your nation's call for service. Since that time, your commitment to patriotism and concern for those who serve their nation has won you the undying respect of all Americans. Tens of thousands of soldiers, sailors, airmen, and Marines have benefitted from your uncompromising commitment to excellence in military service and in particular, military medicine. To provide the care to those who serve when called is sometimes more perilous in the legislature than on the battlefield. You are a luminary of health care delivery and support of those who serve. Your vision has been tested and proven from the battlefields of Vietnam, Grenada, Lebanon, Panama, Haiti, Somalia, and the Persian Gulf to the clinics and health centers that serve the American people. Your spirit and humanity, together with your legislative acumen, have left a legacy for this nation which is unmatched and truly enviable. Through your efforts, this University is now a part of that legacy. Doctors, nurses, and scientists are now serving their nation because of your vision and commitment to purpose. Your nation's health care University takes great pride in awarding you the degree of Doctor of Medical Jurisprudence Honoris Causa.●

CONCURRENT RESOLUTION ON THE BUDGET

The text of the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the U.S. Government for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, as agreed to by the Senate on Thursday, May 25, 1995, is as follows:

Resolved, That the resolution from the House of Representatives (H. Con. Res. 67) entitled ''Concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002'', do pass with the following amendment:

Strike out all after the resolving clause and insert:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1996.

(a) DECLARATION.—The Congress determines and declares that this resolution is the concurrent resolution on the budget for fiscal year 1996, including the appropriate budgetary levels for fiscal years 1997, 1998, 1999, 2000, 2001, and 2002, as required by section 301 of the Congressional Budget Act of 1974.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 1996.

TITLE I—LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.
Sec. 102. Debt increase.
Sec. 103. Social Security.
Sec. 104. Major functional categories.
Sec. 105. Reconciliation.

TITLE II—BUDGETARY RESTRAINTS AND RULEMAKING

Sec. 201. Discretionary spending limits.
Sec. 202. Extension of pay-as-you-go point of order.
Sec. 203. Tax reserve fund in the Senate.
Sec. 204. Budget surplus allowance.
Sec. 205. Scoring of emergency legislation.
Sec. 206. Sale of Government assets.
Sec. 207. Credit reform and guaranteed student loans.
Sec. 208. Extension of Budget Act 60-vote enforcement through 2002.
Sec. 209. Repeal of IRS allowance.
Sec. 210. Exercise of rulemaking powers.

TITLE III—SENSE OF THE CONGRESS AND THE SENATE

Sec. 301. Restructuring Government and program terminations.
Sec. 302. Sense of the Senate regarding returning programs to the States.
Sec. 303. Commercialization of Federal activities.
Sec. 304. Nonpartisan Advisory Commission on the CPI.
Sec. 305. Sense of the Congress on a uniform accounting system in the Federal Government and nonpartisan commission on accounting and budgeting.
Sec. 306. Sense of the Congress that 90 percent of the benefits of any tax cuts must go to the middle class.
Sec. 307. Bipartisan Commission on the Solvency of Medicare.
Sec. 308. Sense of the Senate on the distribution of agriculture savings.
Sec. 309. Sense of the Congress regarding protection of children's health.
Sec. 310. Sense of the Senate that lobbying expenses should remain nondeductible.
Sec. 311. Expatriate taxes.
Sec. 312. Sense of the Senate regarding losses of trust funds due to fraud and abuse in the medicare program.
Sec. 313. Sense of the Congress regarding full funding for Decade of the Brain research.
Sec. 314. Consideration of the Independent Budget for Veterans Affairs, Fiscal Year 1996.
Sec. 315. Sense of the Senate regarding the costs of the National Voter Registration Act of 1993.
Sec. 316. Sense of the Senate regarding Presidential Election Campaign Fund.
Sec. 317. Sense of Congress regarding funds to defend against sexual harassment.
Sec. 318. Sense of the Senate regarding financial responsibility to schools affected by Federal activities.
Sec. 319. Sense of the Senate to eliminate the earnings penalty.
Sec. 320. Student loan cuts.
Sec. 321. Sense of the Senate regarding the nutritional health of children.
Sec. 322. Sense of the Senate on maintaining Federal funding for law enforcement.
Sec. 323. Need to enact long term health care reform.
Sec. 324. Sense of the Senate regarding mandatory major assumptions under function 270: Energy.
Sec. 325. Defense overhead.
Sec. 326. Sense of the Senate regarding the essential air service program of the Department of Transportation.
Sec. 327. Sense of the Senate regarding the priority that should be given to renewable energy and energy efficiency research, development, and demonstration activities.
Sec. 328. Foreign Sales Corporations income exclusion.

TITLE I—LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002:

(1) FEDERAL REVENUES.—(A) For purposes of the enforcement of this resolution—

(i) The recommended levels of Federal revenues are as follows:

Fiscal year 1996: $1,043,275,000,000.
Fiscal year 1997: $1,083,900,000,000.
Fiscal year 1998: $1,135,450,000,000.
Fiscal year 1999: $1,189,800,000,000.
Fiscal year 2000: $1,248,950,000,000.
Fiscal year 2001: $1,315,750,000,000.
Fiscal year 2002: $1,386,675,000,000.

(ii) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1996: $275,000,000.
Fiscal year 1997: $400,000,000.
Fiscal year 1998: $450,000,000.
Fiscal year 1999: $2,300,000,000.
Fiscal year 2000: $2,750,000,000.
Fiscal year 2001: $1,550,000,000.
Fiscal year 2002: $1,675,000,000.

(iii) The amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1996: $103,800,000,000.
Fiscal year 1997: $109,000,000,000.
Fiscal year 1998: $114,900,000,000.
Fiscal year 1999: $120,700,000,000.
Fiscal year 2000: $126,900,000,000.
Fiscal year 2001: $133,600,000,000.
Fiscal year 2002: $140,400,000,000.

(B) For purposes of section 710 of the Social Security Act (excluding the receipts and disbursements of the Hospital Insurance Trust Fund)—

(i) The recommended levels of Federal revenues are as follows:

Fiscal year 1996: $938,600,000,000.
Fiscal year 1997: $973,800,000,000.
Fiscal year 1998: $1,019,300,000,000.
Fiscal year 1999: $1,067,700,000,000.
Fiscal year 2000: $1,120,500,000,000.
Fiscal year 2001: $1,180,600,000,000.
Fiscal year 2002: $1,244,600,000,000.

(ii) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1996: −$595,000,000.
Fiscal year 1997: −$701,000,000.
Fiscal year 1998: −$793,000,000.
Fiscal year 1999: $902,000,000.
Fiscal year 2000: $1,201,000,000.
Fiscal year 2001: $11,000,000.
Fiscal year 2002: −$6,000,000.

(2) NEW BUDGET AUTHORITY.—(A) For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 1996: $1,269,375,000,000.
Fiscal year 1997: $1,296,400,000,000.
Fiscal year 1998: $1,344,650,000,000.
Fiscal year 1999: $1,387,300,000,000.
Fiscal year 2000: $1,446,350,000,000.
Fiscal year 2001: $1,473,550,000,000.
Fiscal year 2002: $1,519,775,000,000.

(B) For purposes of section 710 of the Social Security Act (excluding the receipts and disbursements of the Hospital Insurance Trust Fund), the appropriate levels of total new budget authority are as follows:

Fiscal year 1996: $1,171,200,000,000.
Fiscal year 1997: $1,194,800,000,000.
Fiscal year 1998: $1,237,000,000,000.
Fiscal year 1999: $1,272,500,000,000.
Fiscal year 2000: $1,324,400,000,000.
Fiscal year 2001: $1,342,400,000,000.
Fiscal year 2002: $1,377,900,000,000.

(3) BUDGET OUTLAYS.—(A) For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 1996: $1,275,675,000,000.
Fiscal year 1997: $1,293,800,000,000.
Fiscal year 1998: $1,321,250,000,000.
Fiscal year 1999: $1,368,500,000,000.
Fiscal year 2000: $1,423,850,000,000.
Fiscal year 2001: $1,452,550,000,000.
Fiscal year 2002: $1,500,175,000,000.

(B) For purposes of section 710 of the Social Security Act (excluding the receipts and disbursements of the Hospital Insurance Trust Fund), the appropriate levels of total budget outlays are as follows:

Fiscal year 1996: $1,179,200,000,000.
Fiscal year 1997: $1,193,200,000,000.
Fiscal year 1998: $1,214,600,000,000.
Fiscal year 1999: $1,255,500,000,000.
Fiscal year 2000: $1,302,900,000,000.
Fiscal year 2001: $1,322,500,000,000.
Fiscal year 2002: $1,359,500,000,000.

(4) DEFICITS.—(A) For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 1996: $232,400,000,000.
Fiscal year 1997: $209,900,000,000.
Fiscal year 1998: $185,800,000,000.
Fiscal year 1999: $178,700,000,000.
Fiscal year 2000: $174,900,000,000.
Fiscal year 2001: $136,800,000,000.
Fiscal year 2002: $113,500,000,000.

(B) For purposes of section 710 of the Social Security Act (excluding the receipts and disbursements of the Hospital Insurance Trust Fund), the amounts of the deficits are as follows:

Fiscal year 1996: $240,600,000,000.
Fiscal year 1997: $219,400,000,000.
Fiscal year 1998: $195,300,000,000.
Fiscal year 1999: $187,800,000,000.
Fiscal year 2000: $182,400,000,000.
Fiscal year 2001: $141,900,000,000.
Fiscal year 2002: $114,900,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 1996: $5,201,700,000,000.
Fiscal year 1997: $5,481,000,000,000.
Fiscal year 1998: $5,734,900,000,000.
Fiscal year 1999: $5,980,000,000,000.
Fiscal year 2000: $6,219,000,000,000.
Fiscal year 2001: $6,421,800,000,000.
Fiscal year 2002: $6,599,500,000,000.

(6) DIRECT LOAN OBLIGATIONS.—The appropriate levels of total new direct loan obligations are as follows:

Fiscal year 1996: $37,600,000,000.
Fiscal year 1997: $40,200,000,000.
Fiscal year 1998: $42,300,000,000.
Fiscal year 1999: $45,700,000,000.
Fiscal year 2000: $45,800,000,000.
Fiscal year 2001: $45,800,000,000.
Fiscal year 2002: $46,100,000,000.

(7) PRIMARY LOAN GUARANTEE COMMITMENTS.—The appropriate levels of new primary loan guarantee commitments are as follows:

Fiscal year 1996: $193,400,000,000.
Fiscal year 1997: $187,900,000,000.
Fiscal year 1998: $185,300,000,000.
Fiscal year 1999: $183,300,000,000.
Fiscal year 2000: $184,700,000,000.
Fiscal year 2001: $186,100,000,000.
Fiscal year 2002: $187,600,000,000.

SEC. 102. DEBT INCREASE.

The amounts of the increase in the public debt subject to limitation are as follows:

Fiscal year 1996: $298,700,000,000.
Fiscal year 1997: $279,300,000,000.
Fiscal year 1998: $253,900,000,000.
Fiscal year 1999: $245,100,000,000.
Fiscal year 2000: $239,000,000,000.
Fiscal year 2001: $202,800,000,000.
Fiscal year 2002: $177,700,000,000.

SEC. 103. SOCIAL SECURITY.

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1996: $374,700,000,000.
Fiscal year 1997: $392,000,000,000.
Fiscal year 1998: $411,400,000,000.
Fiscal year 1999: $430,900,000,000.
Fiscal year 2000: $452,000,000,000.
Fiscal year 2001: $475,200,000,000.
Fiscal year 2002: $498,600,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1996: $299,400,000,000.
Fiscal year 1997: $310,900,000,000.
Fiscal year 1998: $324,600,000,000.
Fiscal year 1999: $338,500,000,000.
Fiscal year 2000: $353,100,000,000.
Fiscal year 2001: $368,100,000,000.
Fiscal year 2002: $383,800,000,000.

SEC. 104. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1996 through 2002 for each major functional category are:

(1) National Defense (050):
Fiscal year 1996:
(A) New budget authority, $257,700,000,000.
(B) Outlays, $261,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,700,000,000.
Fiscal year 1997:
(A) New budget authority, $253,400,000,000.
(B) Outlays, $257,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,700,000,000.
Fiscal year 1998:
(A) New budget authority, $259,600,000,000.
(B) Outlays, $254,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,700,000,000.
Fiscal year 1999:
(A) New budget authority, $266,200,000,000.
(B) Outlays, $259,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,700,000,000.
Fiscal year 2000:
(A) New budget authority, $276,000,000,000.
(B) Outlays, $267,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,700,000,000.
Fiscal year 2001:
(A) New budget authority, $275,900,000,000.
(B) Outlays, $267,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,700,000,000.
Fiscal year 2002:
(A) New budget authority, $275,900,000,000.
(B) Outlays, $269,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,700,000,000.

(2) International Affairs (150):
Fiscal year 1996:
(A) New budget authority, $15,400,000,000.
(B) Outlays, $16,900,000,000.
(C) New direct loan obligations, $5,700,000,000.
(D) New primary loan guarantee commitments, $18,300,000,000.
Fiscal year 1997:
(A) New budget authority, $14,300,000,000.
(B) Outlays, $15,100,000,000.
(C) New direct loan obligations, $5,700,000,000.
(D) New primary loan guarantee commitments, $18,300,000,000.
Fiscal year 1998:
(A) New budget authority, $13,500,000,000.
(B) Outlays, $14,300,000,000.
(C) New direct loan obligations, $5,700,000,000.
(D) New primary loan guarantee commitments, $18,300,000,000.
Fiscal year 1999:
(A) New budget authority, $12,600,000,000.
(B) Outlays, $13,500,000,000.
(C) New direct loan obligations, $5,700,000,000.
(D) New primary loan guarantee commitments, $18,300,000,000.
Fiscal year 2000:
(A) New budget authority, $14,100,000,000.
(B) Outlays, $13,100,000,000.
(C) New direct loan obligations, $5,700,000,000.
(D) New primary loan guarantee commitments, $18,300,000,000.
Fiscal year 2001:
(A) New budget authority, $14,300,000,000.
(B) Outlays, $13,400,000,000.
(C) New direct loan obligations, $5,700,000,000.
(D) New primary loan guarantee commitments, $18,300,000,000.
Fiscal year 2002:
(A) New budget authority, $14,200,000,000.
(B) Outlays, $13,300,000,000.
(C) New direct loan obligations, $5,700,000,000.
(D) New primary loan guarantee commitments, $18,300,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1996:
(A) New budget authority, $16,700,000,000.
(B) Outlays, $16,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $16,300,000,000.
(B) Outlays, $16,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $16,100,000,000.
(B) Outlays, $16,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $16,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $15,800,000,000.
(B) Outlays, $15,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $15,800,000,000.
(B) Outlays, $15,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $15,800,000,000.
(B) Outlays, $15,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(4) Energy (270):
Fiscal year 1996:
(A) New budget authority, $2,900,000,000
(B) Outlays, $2,700,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $1,700,000,000.
(B) Outlays, $1,000,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $3,300,000,000.
(B) Outlays, $2,600,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $4,200,000,000.
(B) Outlays, $3,100,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $4,100,000,000.
(B) Outlays, $2,800,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $4,000,000,000.
(B) Outlays, $2,900,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $4,000,000,000.
(B) Outlays, $2,900,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):
Fiscal year 1996:
(A) New budget authority, $19,500,000,000.
(B) Outlays, $20,400,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $18,200,000,000.
(B) Outlays, $20,100,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $15,400,000,000.
(B) Outlays, $17,900,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $16,600,000,000.
(B) Outlays, $18,300,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $16,200,000,000.
(B) Outlays, $17,300,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $14,900,000,000.
(B) Outlays, $15,800,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $15,700,000,000.
(B) Outlays, $16,500,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):
Fiscal year 1996:
(A) New budget authority, $13,100,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $11,500,000,000.
(D) New primary loan guarantee commitments, $5,700,000,000.
Fiscal year 1997:
(A) New budget authority, $12,200,000,000.
(B) Outlays, $10,900,000,000.

(C) New direct loan obligations, $11,500,000,000.
(D) New primary loan guarantee commitments, $5,700,000,000.
Fiscal year 1998:
(A) New budget authority, $11,800,000,000.
(B) Outlays, $10,600,000,000.
(C) New direct loan obligations, $10,900,000,000.
(D) New primary loan guarantee commitments, $5,700,000,000.
Fiscal year 1999:
(A) New budget authority, $11,700,000,000.
(B) Outlays, $10,400,000,000.
(C) New direct loan obligations, $11,600,000,000.
(D) New primary loan guarantee commitments, $5,700,000,000.
Fiscal year 2000:
(A) New budget authority, $11,700,000,000.
(B) Outlays, $10,600,000,000.
(C) New direct loan obligations, $11,400,000,000.
(D) New primary loan guarantee commitments, $5,700,000,000.
Fiscal year 2001:
(A) New budget authority, $10,500,000,000.
(B) Outlays, $9,400,000,000.
(C) New direct loan obligations, $11,100,000,000.
(D) New primary loan guarantee commitments, $5,700,000,000.
Fiscal year 2002:
(A) New budget authority, $10,100,000,000.
(B) Outlays, $9,100,000,000.
(C) New direct loan obligations, $10,900,000,000.
(D) New primary loan guarantee commitments, $5,700,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1996:
(A) New budget authority, $2,500,000,000.
(B) Outlays, −$7,000,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $123,100,000,000.
Fiscal year 1997:
(A) New budget authority, $1,500,000,000.
(B) Outlays, −$5,400,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $123,100,000,000.
Fiscal year 1998:
(A) New budget authority, $600,000,000.
(B) Outlays, −$7,000,000,000
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $123,100,000,000.
Fiscal year 1999:
(A) New budget authority, $100,000,000.
(B) Outlays, −$5,100,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $123,100,000,000.
Fiscal year 2000:
(A) New budget authority, $1,700,000,000.
(B) Outlays, −$2,500,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $123,100,000,000.
Fiscal year 2001:
(A) New budget authority, $500,000,000.
(B) Outlays, −$3,300,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $123,100,000,000.
Fiscal year 2002:
(A) New budget authority, $200,000,000.
(B) Outlays, −$3,400,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $123,100,000,000.
(8) Transportation (400):
Fiscal year 1996:
(A) New budget authority, $36,500,000,000.
(B) Outlays, $38,300,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $38,800,000,000.
(B) Outlays, $32,800,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $39,400,000,000.
(B) Outlays, $31,800,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $40,200,000,000.
(B) Outlays, $31,300,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $41,200,000,000.
(B) Outlays, $31,100,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $41,000,000,000.
(B) Outlays, $31,100,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $40,800,000,000.
(B) Outlays, $31,100,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New primary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1996:
(A) New budget authority, $5,800,000,000.
(B) Outlays, $9,800,000,000.
(C) New direct loan obligations, $2,700,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
Fiscal year 1997:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $7,300,000,000.
(C) New direct loan obligations, $2,700,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
Fiscal year 1998:
(A) New budget authority, $5,300,000,000.
(B) Outlays, $5,600,000,000.
(C) New direct loan obligations, $2,700,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
Fiscal year 1999:
(A) New budget authority, $5,300,000,000.
(B) Outlays, $5,200,000,000.
(C) New direct loan obligations, $2,700,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
Fiscal year 2000:
(A) New budget authority, $5,200,000,000.
(B) Outlays, $5,200,000,000.
(C) New direct loan obligations, $2,700,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
Fiscal year 2001:
(A) New budget authority, $4,600,000,000.
(B) Outlays, $5,100,000,000.
(C) New direct loan obligations, $2,700,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
Fiscal year 2002:
(A) New budget authority, $4,500,000,000.
(B) Outlays, $5,100,000,000.
(C) New direct loan obligations, $2,700,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1996:
(A) New budget authority, $48,975,000,000.
(B) Outlays, $52,575,000,000.
(C) New direct loan obligations, $13,600,000,000.
(D) New primary loan guarantee commitments, $16,300,000,000.
Fiscal year 1997:
(A) New budget authority, $48,400,000,000.
(B) Outlays, $49,000,000,000.
(C) New direct loan obligations, $16,300,000,000.
(D) New primary loan guarantee commitments, $15,900,000,000.
Fiscal year 1998:
(A) New budget authority, $48,450,000,000.
(B) Outlays, $48,250,000,000.
(C) New direct loan obligations, $19,100,000,000.
(D) New primary loan guarantee commitments, $15,200,000,000.
Fiscal year 1999:
(A) New budget authority, $48,800,000,000.
(B) Outlays, $48,200,000,000.
(C) New direct loan obligations, $21,800,000,000.
(D) New primary loan guarantee commitments, $14,300,000,000.
Fiscal year 2000:
(A) New budget authority, $49,350,000,000.
(B) Outlays, $48,850,000,000.
(C) New direct loan obligations, $21,900,000,000.
(D) New primary loan guarantee commitments, $15,000,000,000.
Fiscal year 2001:
(A) New budget authority, $48,850,000,000.
(B) Outlays, $48,350,000,000.
(C) New direct loan obligations, $22,000,000,000.
(D) New primary loan guarantee commitments, $15,800,000,000.
Fiscal year 2002:
(A) New budget authority, $49,075,000,000.
(B) Outlays, $48,575,000,000.
(C) New direct loan obligations, $22,200,000,000.
(D) New primary loan guarantee commitments, $16,600,000,000.
(11) Health (550):
Fiscal year 1996:
(A) New budget authority, $121,100,000,000.
(B) Outlays, $121,030,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1997:
(A) New budget authority, $127,600,000,000.
(B) Outlays, $127,420,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1998:
(A) New budget authority, $133,100,000,000.
(B) Outlays, $133,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1999:
(A) New budget authority, $138,000,000,000.
(B) Outlays, $137,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 2000:
(A) New budget authority, $142,100,000,000.
(B) Outlays, $141,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 2001:
(A) New budget authority, $146,200,000,000.
(B) Outlays, $146,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 2002:
(A) New budget authority, $150,600,000,000.
(B) Outlays, $150,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
(12) Medicare (570):
Fiscal year 1996:
(A) New budget authority, $171,900,000,000.

(B) Outlays, $169,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $180,500,000,000.
(B) Outlays, $178,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $193,100,000,000.
(B) Outlays, $191,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $207,400,000,000.
(B) Outlays, $204,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $221,400,000,000.
(B) Outlays, $219,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $238,900,000,000.
(B) Outlays, $236,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $258,900,000,000.
(B) Outlays, $256,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) For purposes of section 710 of the Social Security Act, Federal Supplementary Medical Insurance Trust Fund:
Fiscal year 1996:
(A) New budget authority, $61,200,000,000.
(B) Outlays, $60,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $66,500,000,000.
(B) Outlays, $65,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $73,700,000,000.
(B) Outlays, $73,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $81,900,000,000.
(B) Outlays, $81,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $90,300,000,000.
(B) Outlays, $89,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $100,400,000,000.
(B) Outlays, $99,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $112,300,000,000.
(B) Outlays, $111,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(14) Income Security (600):
Fiscal year 1996:
(A) New budget authority, $226,300,000,000.
(B) Outlays, $225,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
Fiscal year 1997:
(A) New budget authority, $233,700,000,000.
(B) Outlays, $235,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
Fiscal year 1998:
(A) New budget authority, $253,000,000,000.
(B) Outlays, $246,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
Fiscal year 1999:
(A) New budget authority, $256,000,000,000.
(B) Outlays, $257,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
Fiscal year 2000:
(A) New budget authority, $272,600,000,000.
(B) Outlays, $272,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
Fiscal year 2001:
(A) New budget authority, $277,500,000,000.
(B) Outlays, $277,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
Fiscal year 2002:
(A) New budget authority, $291,900,000,000.
(B) Outlays, $291,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
(15) Social Security (650):
Fiscal year 1996:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $8,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $8,100,000,000.
(B) Outlays, $10,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $8,800,000,000.
(B) Outlays, $11,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $9,600,000,000.
(B) Outlays, $12,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $10,500,000,000.
(B) Outlays, $12,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $11,100,000,000.
(B) Outlays, $13,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $11,700,000,000.
(B) Outlays, $14,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(16) Veterans Benefits and Services (700):
Fiscal year 1996:
(A) New budget authority, $37,400,000,000.
(B) Outlays, $36,900,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $26,700,000,000.
Fiscal year 1997:
(A) New budget authority, $37,500,000,000.
(B) Outlays, $37,700,000,000.
(C) New direct loan obligations, $1,100,000,000.
(D) New primary loan guarantee commitments, $21,600,000,000.
Fiscal year 1998:
(A) New budget authority, $37,600,000,000.
(B) Outlays, $38,000,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $19,700,000,000.
Fiscal year 1999:
(A) New budget authority, $37,900,000,000.
(B) Outlays, $38,200,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $18,600,000,000.
Fiscal year 2000:
(A) New budget authority, $37,900,000,000.
(B) Outlays, $39,400,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $19,300,000,000.
Fiscal year 2001:
(A) New budget authority, $38,300,000,000.
(B) Outlays, $40,100,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $19,900,000,000.
Fiscal year 2002:
(A) New budget authority, $38,700,000,000.
(B) Outlays, $40,400,000,000.
(C) New direct loan obligations, $1,700,000,000.
(D) New primary loan guarantee commitments, $20,600,000,000.
(17) Administration of Justice (750):
Fiscal year 1996:
(A) New budget authority, $20,000,000,000.
(B) Outlays, $19,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $20,700,000,000.
(B) Outlays, $21,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $21,400,000,000.
(B) Outlays, $22,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $22,300,000,000.
(B) Outlays, $23,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $22,300,000,000.
(B) Outlays, $23,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $21,900,000,000.
(B) Outlays, $23,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $21,800,000,000.
(B) Outlays, $23,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) General Government (800):
Fiscal year 1996:
(A) New budget authority, $12,500,000,000.
(B) Outlays, $13,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:
(A) New budget authority, $12,400,000,000.
(B) Outlays, $12,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $12,200,000,000.
(B) Outlays, $12,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $12,100,000,000.
(B) Outlays, $12,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $12,000,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $11,600,000,000.
(B) Outlays, $11,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $11,600,000,000.
(B) Outlays, $11,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Net Interest (900):
Fiscal year 1996:
(A) New budget authority, $297,900,000,000.
(B) Outlays, $297,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $308,900,000,000.
(B) Outlays, $308,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $316,600,000,000.
(B) Outlays, $316,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $327,800,000,000.
(B) Outlays, $327,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $338,600,000,000.
(B) Outlays, $338,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $345,500,000,000.
(B) Outlays, $345,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $353,300,000,000.
(B) Outlays, $353,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) For purposes of section 710 of the Social Security Act, Net Interest (900):
Fiscal year 1996:
(A) New budget authority, $308,800,000,000.
(B) Outlays, $308,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $319,800,000,000.
(B) Outlays, $319,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $326,900,000,000.
(B) Outlays, $326,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $337,100,000,000.
(B) Outlays, $337,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $346,300,000,000.
(B) Outlays, $346,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, $351,200,000,000.
(B) Outlays, $351,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $356,400,000,000.
(B) Outlays, $356,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(21) The corresponding levels of gross interest on the public debt are as follows:
Fiscal year 1996: $369,598,000,000.
Fiscal year 1997: $380,164,000,000.
Fiscal year 1998: $388,144,000,000.
Fiscal year 1999: $400,182,000,000.
Fiscal year 2000: $411,444,000,000.
Fiscal year 2001: $421,668,000,000.
Fiscal year 2002: $430,760,000,000.
(22) Allowances (920):
Fiscal year 1996:
(A) New budget authority, −$7,600,000,000.
(B) Outlays, −$6,070,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, −$7,500,000,000.
(B) Outlays, −$7,580,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, −$6,300,000,000.
(B) Outlays, −$6,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, −$5,800,000,000.
(B) Outlays, −$6,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, −$4,700,000,000.
(B) Outlays, −$5,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, −$4,700,000,000.
(B) Outlays, −$5,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, −$4,700,000,000.
(B) Outlays, −$5,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(23) Undistributed Offsetting Receipts (950):
Fiscal year 1996:
(A) New budget authority, −$33,100,000,000.
(B) Outlays, −$33,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, −$33,800,000,000.
(B) Outlays, −$33,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, −$36,300,000,000.
(B) Outlays, −$36,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, −$37,700,000,000.
(B) Outlays, −$37,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, −$39,700,000,000.
(B) Outlays, −$39,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, −$41,100,000,000.
(B) Outlays, −$41,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, −$42,300,000,000.
(B) Outlays, −$42,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(24) For purposes of section 710 of the Social Security Act, Undistributed Offsetting Receipts (950):
Fiscal year 1996:
(A) New budget authority, −$30,600,000,000.
(B) Outlays, −$30,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, −$31,200,000,000.
(B) Outlays, −$31,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, −$33,600,000,000.
(B) Outlays, −$33,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, −$34,900,000,000.
(B) Outlays, −$34,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, −$36,700,000,000.
(B) Outlays, −$36,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2001:
(A) New budget authority, −$37,900,000,000.
(B) Outlays, −$37,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, −$39,000,000,000.
(B) Outlays, −$39,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

SEC. 105. RECONCILIATION.

(a) SENATE COMMITTEES.—Not later than July 14, 1995, the committees named in this subsection

shall submit their recommendations to the Committee on the Budget of the Senate. After receiving those recommendations, the Committee on the Budget shall report to the Senate a reconciliation bill carrying out all such recommendations without any substantive revision.

(1) COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.—The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $2,490,000,000 in fiscal year 1996, $27,973,000,000 for the period of fiscal years 1996 through 2000, and $45,804,000,000 for the period of fiscal years 1996 through 2002.

(2) COMMITTEE ON ARMED SERVICES.—The Senate Committee on Armed Services shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $21,000,000 in fiscal year 1996, $338,000,000 for the period of fiscal years 1996 through 2000, and $649,000,000 for the period of fiscal years 1996 through 2002.

(3) COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.—The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction to reduce the deficit $373,000,000 in fiscal year 1996, $5,742,000,000 for the period of fiscal years 1996 through 2000, and $6,690,000,000 for the period of fiscal years 1996 through 2002.

(4) COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.—The Senate Committee on Commerce, Science, and Transportation shall report changes in laws within its jurisdiction to reduce the deficit $2,464,000,000 in fiscal year 1996, $21,937,000,000 for the period of fiscal years 1996 through 2000, and $33,685,000,000 for the period of fiscal years 1996 through 2002.

(5) COMMITTEE ON ENERGY AND NATURAL RESOURCES.—The Senate Committee on Energy and Natural Resources shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $1,771,000,000 in fiscal year 1996, $4,775,000,000 for the period of fiscal years 1996 through 2000, and $5,001,000,000 for the period of fiscal years 1996 through 2002.

(6) COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS.—The Senate Committee on Environment and Public Works shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $106,000,000 in fiscal year 1996, $1,290,000,000 for the period of fiscal years 1996 through 2000, and $2,236,000,000 for the period of fiscal years 1996 through 2002.

(7) COMMITTEE ON FINANCE.—The Senate Committee on Finance shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $21,657,000,000 in fiscal year 1996, $278,760,000,000 for the period of fiscal years 1996 through 2000, and $519,002,000,000 for the period of fiscal years 1996 through 2002.

(8) COMMITTEE ON FOREIGN RELATIONS.—The Senate Committee on Foreign Relations shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $0 in fiscal year 1996, $0 for the period of fiscal years 1996 through 2000, and $0 for the period of fiscal years 1996 through 2002.

(9) COMMITTEE ON GOVERNMENTAL AFFAIRS.—The Senate Committee on Governmental Affairs shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $118,000,000 in fiscal year 1996, $3,023,000,000 for the period of fiscal years 1996 through 2000, and $6,871,000,000 for the period of fiscal years 1996 through 2002.

(10) COMMITTEE ON THE JUDICIARY.—The Senate Committee on the Judiciary shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $119,000,000 in fiscal year 1996, $923,000,000 for the period of fiscal years 1996 through 2000, and $1,483,000,000 for the period of fiscal years 1996 through 2002.

(11) COMMITTEE ON LABOR AND HUMAN RESOURCES.—The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $266,000,000 in fiscal year 1996, $2,990,000,000 for the period of fiscal years 1996 through 2000, and $4,395,000,000 for the period of fiscal years 1996 through 2002.

(12) COMMITTEE ON RULES AND ADMINISTRATION.—The Senate Committee on Rules and Administration shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $2,000,000 in fiscal year 1996, $37,000,000 for the period of fiscal years 1996 through 2000, and $72,000,000 for the period of fiscal years 1996 through 2002.

(13) COMMITTEE ON VETERANS' AFFAIRS.—The Senate Committee on Veterans' Affairs shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $301,000,000 in fiscal year 1996, $5,760,000,000 for the period of fiscal years 1996 through 2000, and $10,002,000,000 for the period of fiscal years 1996 through 2002.

TITLE II—BUDGETARY RESTRAINTS AND RULEMAKING

SEC. 201. DISCRETIONARY SPENDING LIMITS.

(a) DEFINITION.—As used in this section and for the purposes of allocations made pursuant to section 602(a) of the Congressional Budget Act of 1974, for the discretionary category, the term ''discretionary spending limit'' means—

(1) with respect to fiscal year 1996—

(A) for the defense category $258,379,000,000 in new budget authority and $262,035,000,000 in outlays; and

(B) for the nondefense category $219,441,000,000 in new budget authority and $264,908,000,000 in outlays;

(2) with respect to fiscal year 1997—

(A) for the defense category $254,028,000,000 in new budget authority and $257,695,000,000 in outlays; and

(B) for the nondefense category $212,164,000,000 in new budget authority and $249,248,000,000 in outlays;

(3) with respect to fiscal year 1998—

(A) for the defense category $260,321,000,000 in new budget authority and $255,226,000,000 in outlays; and

(B) for the nondefense category $219,177,000,000 in new budget authority and $244,735,000,000 in outlays;

(4) with respect to fiscal year 1999—

(A) for the defense category $266,906,000,000 in new budget authority and $260,331,000,000 in outlays; and

(B) for the nondefense category $210,509,000,000 in new budget authority and $242,212,000,000 in outlays;

(5) with respect to fiscal year 2000—

(A) for the defense category $276,644,000,000 in new budget authority and $268,468,000,000 in outlays; and

(B) for the nondefense category $215,463,000,000 in new budget authority and $243,078,000,000 in outlays;

(6) with respect to fiscal year 2001—

(A) for the defense category $276,644,000,000 in new budget authority and $268,468,000,000 in outlays; and

(B) for the nondefense category $219,384,000,000 in new budget authority and $248,786,000,000 in outlays; and

(7) with respect to fiscal year 2002—

(A) for the defense category $276,644,000,000 in new budget authority and $270,000,000,000 in outlays; and

(B) for the nondefense category $218,784,000,000 in new budget authority and $248,160,000,000 in outlays;

as adjusted for changes in concepts and definitions and emergency appropriations.

(b) POINT OF ORDER IN THE SENATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall not be in order in the Senate to consider—

(A) any concurrent resolution on the budget for fiscal year 1996, 1997, 1998, 1999, 2000, 2001, or 2002 (or amendment, motion, or conference report on such a resolution) that provides discretionary spending in excess of the sum of the defense and nondefense discretionary spending limits for such fiscal year; or

(B) any appropriations bill or resolution (or amendment, motion, or conference report on such appropriations bill or resolution) for fiscal year 1995, 1996, 1997, 1998, 1999, 2000, 2001, or 2002 that would exceed any of the discretionary spending limits in this section or suballocations of those limits made pursuant to section 602(b) of the Congressional Budget Act of 1974.

(2) EXCEPTION.—This section shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(c) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(e) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

SEC. 202. EXTENSION OF PAY-AS-YOU-GO POINT OF ORDER.

(a) PURPOSE.—The Senate declares that it is essential to—

(1) ensure continued compliance with the balanced budget plan set forth in this resolution; and

(2) continue the pay-as-you-go enforcement system.

(b) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct-spending or receipts legislation (as defined in paragraph (3)) that would increase the deficit for any one of the three applicable time periods (as defined in paragraph (2)) as measured pursuant to paragraph (4).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term ''applicable time period'' means any one of the three following periods—

(A) the first fiscal year covered by the most recently adopted concurrent resolution on the budget;

(B) the period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget; or

(C) the period of the 5 fiscal years following the first 5 years covered by the most recently adopted concurrent resolution on the budget.

(3) DIRECT-SPENDING OR RECEIPTS LEGISLATION.—For purposes of this subsection, the term ''direct-spending or receipts legislation'' shall—

(A) except as otherwise provided in this subsection, include all direct-spending legislation as that term is interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985;

(B) include—

(i) any bill, joint resolution, amendment, motion, or conference report to which this subsection otherwise applies; and

(ii) the estimated amount of savings in direct-spending programs applicable to that fiscal year resulting from the prior year's sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985, if any (except for any amounts sequestered as a result of a net deficit increase in the fiscal year immediately preceding the prior fiscal year); and

(C) exclude—

(i) any concurrent resolution on the budget; and

(ii) full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(4) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline used for the most recent concurrent resolution on the budget, and for years beyond those covered by that concurrent resolution; and

(B) abide by the requirements of subsections (a) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, except that references to ''outyears'' in that section shall be deemed to apply to any year (other than the budget year) covered by any one of the time periods defined in paragraph (2) of this subsection.

(c) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(e) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and receipts for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(f) CONFORMING AMENDMENT.—Section 23 of House Concurrent Resolution 218 (103d Congress) is repealed.

(g) SUNSET.—Subsections (a) through (e) of this section shall expire September 30, 2002.

SEC. 203. TAX RESERVE FUND IN THE SENATE.

(a) IN GENERAL.—After passage of a conference report on legislation complying with the reconciliation requirements of section 105, revenue and spending aggregates shall be reduced and allocations shall be revised for legislation that reduces revenues within a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit in this resolution for—

(1) fiscal year 1996;

(2) the period of fiscal years 1996 through 2000; or

(3) the period of fiscal years 2001 through 2005.

(b) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(c) REPORTING REVISED ALLOCATIONS.—The appropriate committee shall report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this section.

SEC. 204. BUDGET SURPLUS ALLOWANCE.

(a) ADJUSTMENTS.—For the purposes of points of order under the Congressional Budget and Impoundment Control Act of 1974 and this concurrent resolution on the budget, the revenue aggregates shall be reduced and other appropriate budgetary aggregates and levels shall be revised to reflect the additional deficit reduction achieved as calculated under subsection (c) for legislation that reduces revenues by providing family tax relief and incentives to stimulate savings, investment, job creation, and economic growth.

(b) REVISED AGGREGATES.—Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate shall submit to the Senate appropriately revised budgetary aggregates and levels by an amount that does not exceed the additional deficit reduction calculated under subsection (d).

(c) CBO REVISED DEFICIT ESTIMATE.—After the enactment of legislation that complies with the reconciliation directives of section 105, the Congressional Budget Office shall provide the Chairman of the Committee on the Budget of the Senate a revised estimate of the deficit for fiscal years 1996 through 2005.

(d) ADDITIONAL DEFICIT REDUCTION.—For purposes of this section, the term ''additional deficit reduction'' means the amount by which the total deficit levels assumed in this resolution for a fiscal year exceed the revised deficit estimate provided pursuant to subsection (c) for such fiscal year for fiscal years 1996 through 2005.

(e) CBO CERTIFICATION AND CONTINGENCIES.—This section shall not apply unless—

(1) legislation has been enacted complying with the reconciliation directives of section 105;

(2) the Director of the Congressional Budget Office has provided the estimate required by subsection (c); and

(3) the revisions made pursuant to this subsection do not cause a budget deficit for fiscal year 2002, 2003, 2004, or 2005.

SEC. 205. SCORING OF EMERGENCY LEGISLATION.

Notwithstanding section 606(d)(2) of the Congressional Budget Act of 1974 and beginning with fiscal year 1996, the determinations under sections 302, 303, and 311 of such Act shall take into account any new budget authority, new entitlement authority, outlays, receipts, or deficit effects as a consequence of the provisions of section 251(b)(2)(D) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 206. SALE OF GOVERNMENT ASSETS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the prohibition on scoring asset sales has discouraged the sale of assets that can be better managed by the private sector and generate receipts to reduce the Federal budget deficit;

(2) the President's fiscal year 1996 budget included $8,000,000,000 in receipts from asset sales and proposed a change in the asset sale scoring rule to allow the proceeds from these sales to be scored;

(3) assets should not be sold if such sale would increase the budget deficit over the long run; and

(4) the asset sale scoring prohibition should be repealed and consideration should be given to replacing it with a methodology that takes into account the long-term budgetary impact of asset sales.

(b) BUDGETARY TREATMENT.—For purposes of any concurrent resolution on the budget and the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from sales of assets shall be scored with respect to the level of budget authority, outlays, or revenues.

(c) DEFINITIONS.—For purposes of this section, the term ''sale of an asset'' shall have the same meaning as under section 250(c)(21) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(d) TREATMENT OF LOAN ASSETS.—For the purposes of this section, the sale of loan assets or the prepayment of a loan shall be governed by the terms of the Federal Credit Reform Act of 1990.

SEC. 207. CREDIT REFORM AND GUARANTEED STUDENT LOANS.

For the purposes of allocations and points of order under the Congressional Budget Act of 1974 and this resolution, the cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following cash flows for the estimated life of the loan:

(1) Loan disbursements.

(2) Repayments of principal.

(3) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

(4) In the case of legislation increasing direct loan commitments for a program in which loan commitments will equal or exceed $5,000,000,000 for the coming fiscal year (or for any prior fiscal year), direct expenses, including—

(A) activities related to credit extension, loan origination, loan servicing, training, program promotion, management of contractors, and payments to contractors, other government entities, and program participants;

(B) collection of delinquent loans; and

(C) writeoff and closeout of loans.

SEC. 208. EXTENSION OF BUDGET ACT 60-VOTE ENFORCEMENT THROUGH 2002.

Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by sections 13112(b) and 13208(b)(3) of the Budget Enforcement Act of 1990), the second sentence of section 904(c) of the Congressional Budget Act of 1974 (except insofar as it relates to section 313 of that Act) and the final sentence of section 904(d) of that Act (except insofar as it relates to section 313 of that Act) shall continue to have effect as rules of the Senate through (but no later than) September 30, 2002.

SEC. 209. REPEAL OF IRS ALLOWANCE.

(a) Section 25 of House Concurrent Resolution 218 (103d Congress, 2d Session) is repealed.

(b) It is the sense of the Senate that the revenue levels contained in the budget resolution should assume passage of the ''Taxpayers Bill of Rights 2'' and that the Senate should pass the Taxpayers Bill of Rights 2 this Congress.

(c) It is the sense of the Senate that funding for tax compliance efforts should be a top priority and that the assumptions underlying the functional totals in this resolution include the administration's full request for the Internal Revenue Service.

SEC. 210. EXERCISE OF RULEMAKING POWERS.

The Senate adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change those rules (so far as they relate to the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

TITLE III—SENSE OF THE CONGRESS AND THE SENATE

SEC. 301. RESTRUCTURING GOVERNMENT AND PROGRAM TERMINATIONS.

(a) FINDINGS.—The Senate finds that to balance the Federal budget in a rational and reasonable manner requires an assessment of national priorities and the appropriate role of the Federal Government in meeting the challenges facing the United States in the 21st century.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that to balance the budget the Congress should—

(1) restructure Federal programs to meet identified national priorities in the most effective and efficient manner so that program dollars get to the intended purpose or recipient;

(2) terminate programs that have largely met their goals, that have outlived their original purpose, or that have been superseded by other programs;

(3) seek to end significant duplication among Federal programs, which results in excessive administrative costs and ill serve the American people; and

(4) eliminate lower priority programs.

SEC. 302. SENSE OF THE SENATE REGARDING RETURNING PROGRAMS TO THE STATES.

(a) FINDINGS.—The Senate finds that—

(1) section 8 of article I of the Constitution grants the Federal Government limited powers and the 10th amendment to the Constitution expressly provides that the powers not delegated to the Federal Government are reserved to the States and the people;

(2) in fiscal year 1993, the Federal Government provided funds to States and localities through 593 categorical programs totaling $206,000,000,000;

(3) in attempting to solve every problem of society, the Federal Government is overburdening the States and its citizens with cumbersome and intrusive laws, programs, regulations, and mandates; and

(4) in administering many Federal programs, the States are often better equipped to determine and respond to the particular needs of the people than the Federal Government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Federal programs should be reviewed to determine whether they are an appropriate function of the Federal Government and whether they are more appropriately a responsibility of the States consistent with the 10th amendment to the Constitution;

(2) Federal resources should be provided in a manner which rewards work, promotes families, and provides a helping hand during times of crisis;

(3) the Federal Government should seek a new partnership with States that recognizes that ''one size fits all'' solutions of the past are flawed;

(4) this new partnership should include block grants that provide maximum flexibility to States and localities in terms of the design and structure of programs to ensure the maximum benefit at the least cost to the American taxpayer;

(5) Federal funds must not be used to supplant existing expenditures by individuals, localities, and States;

(6) block grants should not be reduced to revenue sharing;

(7) adequate safeguards should be in place to protect the Federal investment, such as auditing or maintenance of effort provisions; and

(8) the inclusion of Federal goals and principles in block grant programs may be appropriate, as well as essential data collection requirements for evaluation purposes.

SEC. 303. COMMERCIALIZATION OF FEDERAL ACTIVITIES.

(a) FINDINGS.—The Senate finds that—

(1) there are a number of functions being performed by the Federal Government that should not be performed by the Federal Government because they could be more conveniently and efficiently provided by the private sector;

(2) our Founding Fathers wrote a Constitution that created a Federal Government of limited powers and limited responsibility;

(3) the current Federal Government owns one-third of the land of this great Nation, oil fields, hospitals, railroads, Tokyo office buildings, electric companies, 4,900,000 housing units which are owned outright by Housing and Urban Development or are eligible for Housing and Urban Development subsidy payments, and loan portfolios that are larger than most of the financial institutions in the country; and

(4)(A) the Federal Government's encroachment into the private sector is significant, often duplicative, inconsistent with free market principles, and costly for taxpayers;

(B) when the Federal Government monopolizes a service that could be provided by the private sector it usually costs taxpayers 30 percent more; and

(C) one-fourth of the work done by Federal employees competes with the private sector.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Congress should better define privatization and how it can contribute to ''right sizing'' the Federal Government and at the same time achieve better service, more innovation, and significant deficit reduction;

(2) privatization can take at least four forms: asset sales, contracting out, creating corporate enterprises under strict and clearly defined deadlines designed to achieve full privatization, and eliminating legislative barriers, generically called ''private sector lockouts'';

(3) provisions of law that prohibit or ''lockout'' the private sector from competing for providing certain services should be examined and eliminated;

(4) the private sector from Main Street, Wall Street and Academia should be encouraged by the President and the Congress to bring forward their privatization best practices and proposals for privatization;

(5) the Head of each Federal agency and department and the Office of Management and Budget should designate senior level staff persons to develop and evaluate private sector privatization initiatives that should be included in the President's budget;

(6)(A) the Office of Management and Budget should set appropriate privatization goals for each agency; and

(B) no expansions of programs under a department's jurisdiction should be approved by the Office of Management and Budget unless the agency has achieved those privatization goals;

(7) section 257(e) of the Balanced Budget and Emergency Deficit Control Act which prohibits crediting savings from asset sales should be repealed or modified; and

(8) Congress should evaluate privatization processes taking place in other countries to determine what lessons could be learned so that United States could develop a comprehensive privatization policy by the end of the next fiscal year.

SEC. 304. NONPARTISAN ADVISORY COMMISSION ON THE CPI.

(a) FINDINGS.—The Congress finds that—

(1) Congress intended to insulate certain government beneficiaries and taxpayers from the effects of inflation by indexing payments and tax brackets to the Consumer Price Index (CPI);

(2) approximately 30 percent of total Federal outlays and 45 percent of Federal revenues are indexed to reflect changes in the CPI; and

(3) the overwhelming consensus among experts is that the method used to construct the CPI and the current calculation of the CPI both overstate the estimate of the true cost of living.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) a temporary advisory commission should be established to make objective and nonpartisan recommendations concerning the appropriateness and accuracy of the methodology and calculations that determine the CPI;

(2) the Commission should be appointed on a nonpartisan basis, and should be composed of experts in the fields of economics, statistics, or other related professions; and

(3) the Commission should report its recommendations to the Bureau of Labor Statistics and to Congress at the earliest possible date.

SEC. 305. SENSE OF THE CONGRESS ON A UNIFORM ACCOUNTING SYSTEM IN THE FEDERAL GOVERNMENT AND NONPARTISAN COMMISSION ON ACCOUNTING AND BUDGETING.

(a) FINDINGS.—The Congress finds the following:

(1) Much effort has been devoted to strengthening Federal internal accounting controls in the past. Although progress has been made in recent years, there still exists no uniform Federal accounting system for Federal Government entities and institutions.

(2) As a result, Federal financial management continues to be seriously deficient, and Federal financial management and fiscal practices have failed to identify costs, failed to reflect the total liabilities of congressional actions, and failed to accurately report the financial condition of the Federal Government.

(3) Current Federal accounting practices do not adequately report financial problems of the Federal Government or the full cost of programs and activities. The continued use of these practices undermines the Government's ability to provide credible and reliable financial data, contributes to waste and inefficiency, and will not assist in achieving a balanced budget.

(4) Waste and inefficiency in Federal Government undermine the confidence of the American people in the Government and reduces the Federal Government's ability to address adequately vital public needs.

(5) To rebuild the accountability and credibility of the Federal Government and restore public confidence in the Federal Government, a uniform Federal accounting system, that fully meets the accounting standards and reporting objectives for the Federal Government, must be immediately established so that all assets and liabilities, revenues and expenditures or expenses, and the full cost of programs and activities of the Federal Government can be consistently and accurately recorded, monitored, and uniformly reported throughout all government entities for budgeting and control and management evaluation purposes.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the assumptions underlying the functional totals in this resolution include the following assumptions:

(1) UNIFORM FEDERAL ACCOUNTING SYSTEM.—(A) A uniform Federal accounting system should be established to consistently compile financial data across the Federal Government, and to make full disclosure of Federal financial data, including the full cost of Federal programs and activities, to the citizens, the Congress, the President, and agency management.

(B) Beginning with fiscal year 1997, the President should require the heads of agencies to—

(i) implement and maintain a uniform Federal accounting system; and

(ii) provide financial statements;

in accordance with generally accepted accounting principles applied on a consistent basis and established in accordance with proposed Federal accounting standards and interpretations recommended by the Federal Accounting Standards Advisory Board and other applicable law.

(2) NONPARTISAN ADVISORY COMMISSION ON ACCOUNTING AND BUDGETING.—(A) A temporary advisory commission should be established to make objective and nonpartisan recommendations for the appropriate treatment of capital expenditures under a uniform Federal accounting system that is consistent with generally accepted accounting principles.

(B) The Commission should be appointed on a nonpartisan basis, and should be composed of public and private experts in the fields of finance, economics, accounting, and other related professions.

(C) The Commission should report to the President and the Congress by August 1, 1995, on its recommendations, and should include in its report a detailed plan for implementing such recommendations.

SEC. 306. SENSE OF THE CONGRESS THAT 90 PERCENT OF THE BENEFITS OF ANY TAX CUTS MUST GO TO THE MIDDLE CLASS.

(a) FINDINGS.—The Congress finds that—

(1) the incomes of middle-class families have stagnated since the early 1980's, with family incomes growing more slowly between 1979 and 1989 than in any other business cycle since World War II; and

(2) according to the Department of the Treasury, in 1996, approximately 90 percent of American families will have incomes less than $100,000.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that if the 1996 Concurrent Budget Resolution includes any cut in taxes, approximately 90 percent of the benefits of these tax cuts must go to working families with incomes less than $100,000.

SEC. 307. BIPARTISAN COMMISSION ON THE SOLVENCY OF MEDICARE.

(a) FINDINGS.—Congress finds that—

(1) the Health Insurance for the Aged Act, which created the medicare program, was enacted on July 30, 1965, and, therefore, the medicare program will celebrate its 30-year anniversary on July 30, 1995;

(2) on April 3, 1995, the Trustees of medicare submitted their 1995 Annual Report on the Status of the Medicare Program to the Congress;

(3) the Trustees of medicare have concluded that ''the medicare program is clearly unsustainable in its present form'';

(4) the Trustees of medicare have concluded that ''the Hospital Insurance Trust Fund, which pays inpatient hospital expenses, will be able to pay benefits for only about 7 years and is severely out of financial balance in the long range'';

(5) the Public Trustees of medicare have concluded that ''the Supplementary Medical Insurance Trust Fund shows a rate of growth of costs which is clearly unsustainable'';

(6) the Trustees of medicare have recommended ''legislation to reestablish the Quadrennial Advisory Council that will help lead to effective solutions to the problems of the program'';

(7) the Bipartisan Commission on Entitlement and Tax Reform concluded that, absent long-term changes in medicare, projected medicare outlays will increase from about 4 percent of the payroll tax base today to over 15 percent of the payroll tax base by the year 2030;

(8) the Bipartisan Commission on Entitlement and Tax Reform recommended, by a vote of 30 to 1, that spending and revenues available for medicare must be brought into long-term balance;

(9) the Public Trustees of medicare have concluded that ''We had hoped for several years that comprehensive health reform would include meaningful medicare reforms. However, with the results of the last Congress, it is now clear that medicare reform needs to be addressed urgently as a distinct legislative initiative''; and

(10) the Public Trustees of medicare ''strongly recommend that the crisis presented by the financial condition of the medicare trust funds be urgently addressed on a comprehensive basis, including a review of the programs's financing methods, benefit provisions, and delivery mechanisms.''.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) a special bipartisan commission should be established immediately to make recommendations concerning the most appropriate response to the short-term solvency and long-term sustainability issues facing medicare;

(2) the commission should report to Congress its recommendations on the appropriate response to the short-term solvency of medicare by July 10, 1995, in order that the committees of jurisdiction may consider those recommendations in fashioning an appropriate congressional response; and

(3) the commission should report its recommendations to respond to the Public Trustees' call to make medicare's financial condition sustainable over the long term to Congress by February 1, 1996.

SEC. 308. SENSE OF THE SENATE ON THE DISTRIBUTION OF AGRICULTURE SAVINGS.

It is the sense of the Senate that, in response to the reconciliation instructions in section 105 of this resolution, the Senate Committee on Agriculture, Nutrition, and Forestry should provide that no more than 20 percent of the savings be achieved in commodity programs.

SEC. 309. SENSE OF THE CONGRESS REGARDING PROTECTION OF CHILDREN'S HEALTH.

(a) FINDINGS.—The Congress finds that—

(1) Today's children and the next generation are the prime beneficiaries of the benefits of attaining a balanced Federal budget. Without a balanced budget, today's children must bear the increasing burden of the Federal debt. Continued deficit spending would doom future generations to slower economic growth and lower living standards.

(2) The health of children is essential to the future economic and social well-being of the Nation.

(3) Medicaid covers one in four children and one in three births. Nearly 60 percent of children covered by medicaid are from working families.

(4) While children represent one-half of all people eligible for medicaid, they account for less than 25 percent of medicaid expenditures.

(5) Medicaid provides a broad range of services essential for the health of a significant portion of the Nation's children with disabilities.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the health care needs of low-income pregnant women and children should be a top priority;

(2) careful study must be made of the impact of medicaid reform proposals on children's health and on vital sources of care including children's hospitals and community and migrant health centers; and

(3) medicaid reform legislation which would allow greater State flexibility in the delivery of care and in the control of the rate of growth in costs of the program should also encourage States to place a priority on coverage for pregnant women and children.

SEC. 310. SENSE OF THE SENATE THAT LOBBYING EXPENSES SHOULD REMAIN NONDEDUCTIBLE.

(a) FINDINGS.—The Senate finds that ordinary Americans generally are not allowed to deduct the costs of communicating with their elected representatives.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that lobbying expenses should not be tax deductible.

SEC. 311. EXPATRIATE TAXES.

It is the sense of the Senate that—

(1) Congress should revise the Internal Revenue Code to ensure that very wealthy individuals are not able to reduce or avoid their United States income, estate, or gift tax liability by relinquishing their United States citizenship; and

(2) the increased revenues resulting from the revision should be used to reduce the deficit.

SEC. 312. SENSE OF THE SENATE REGARDING LOSSES OF TRUST FUNDS DUE TO FRAUD AND ABUSE IN THE MEDICARE PROGRAM.

(a) FINDINGS.—The Senate finds that—

(1) the General Accounting Office estimates that as much as $100,000,000,000 are wasted each year in the health care system due to fraud and abuse;

(2) outlays for the medicare program under title XVIII of the Social Security Act during fiscal year 1994 were $161,100,000,000, and the General Accounting Office estimates that up to 10 percent of those outlays were wasted because of fraud and abuse;

(3) medicare beneficiaries incur higher out-of-pocket costs and copayments due to inflated billings resulting from fraudulent and abusive practices perpetrated against the medicare program; and

(4) funds lost because of fraud and abuse are contributing to the financial crises of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as identified by the Boards of Trustees of such trust funds in their 1995 annual reports.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that as the Committee on Finance of the Senate and, if established, the Bipartisan Commission on the Solvency of Medicare recommended under section 307, address the long-term solvency of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), high priority should be given to proposals which identify, eliminate, and recover funds expended from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund due to fraud and abuse in such program. In addition, the Senate assumes that funds recovered from enhanced anti-fraud and abuse efforts be used to fund health care anti-fraud and abuse enforcement efforts, reimbursements to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund for losses due to fraud and abuse, and deficit reduction.

SEC. 313. SENSE OF THE CONGRESS REGARDING FULL FUNDING FOR DECADE OF THE BRAIN RESEARCH.

(a) FINDINGS.—The Congress finds that—

(1) long-term health care costs associated with diseases and disorders of the brain have a substantial impact on Federal expenditures for medicaid and medicare, and on the earning potential of the Nation;

(2) to highlight the impact of brain diseases and disorders on the economy and well being of the Nation the Congress has declared the 1990's the Decade of the Brain;

(3) meaningful research has been initiated as part of the Decade of the Brain;

(4) if fully funded this research could provide important new medical breakthroughs; and

(5) these breakthroughs could result in a significant reduction in costs to the Federal Government.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that in furtherance of the goals of the Decade of the Brain the appropriate committees should seek to ensure that full funding is provided for research on brain diseases and disorders in each of the fiscal years to which this resolution applies.

SEC. 314. CONSIDERATION OF THE INDEPENDENT BUDGET FOR VETERANS AFFAIRS, FISCAL YEAR 1996.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas over 26,000,000 veterans are eligible for veterans health care;

(2) Whereas the Veterans Health Administration of the Department of Veterans Affairs operates the largest Federal medical care delivery system in the United States, providing for the medical care needs of our Nation's veterans;

(3) Whereas the veterans' service organizations have provided a plan, known as the Independent Budget for Veterans Affairs, to reform the veterans' health care delivery system to adapt it to the modern health care environment and improve its ability to meet the health care needs of veterans in a cost-effective manner;

(4) Whereas current budget proposals assume a change in the definition of service-connected veterans;

(5) Whereas proposals contained within the Independent Budget may provide improved service to veterans;

(6) Whereas current budget proposals may not have fully considered the measures proposed by the veterans' service organizations in the Independent Budget.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the reforms and proposals contained within the Independent Budget for Veterans Affairs, Fiscal Year 1996 should be given careful consideration in an effort to ensure the Nation's commitment to its veterans.

SEC. 315. SENSE OF THE SENATE REGARDING THE COSTS OF THE NATIONAL VOTER REGISTRATION ACT OF 1993.

It is the sense of the Senate that within the assumptions under budget function 800 funds will be spent for reimbursement to the States for the costs of implementing the National Voter Registration Act of 1993.

SEC. 316. SENSE OF THE SENATE REGARDING PRESIDENTIAL ELECTION CAMPAIGN FUND.

It is the sense of the Senate that the assumptions underlying function 800 include the following: That payments to presidential campaigns from the Presidential Election Campaign Fund, as authorized by the Federal Election Campaign Act of 1974, should not be used to pay for or augment damage awards or settlements arising from a civil or criminal action, or the threat thereof, related to sexual harassment.

SEC. 317. SENSE OF CONGRESS REGARDING FUNDS TO DEFEND AGAINST SEXUAL HARASSMENT.

It is the sense of Congress that no Member of Congress or the Executive Branch may use campaign funds or privately donated funds to defend against sexual harassment lawsuits.

SEC. 318. SENSE OF THE SENATE REGARDING FINANCIAL RESPONSIBILITY TO SCHOOLS AFFECTED BY FEDERAL ACTIVITIES.

(a) FINDINGS.—The Senate finds as follows:

(1) In order to fulfill its responsibility to communities that were adversely affected by Federal activities, the Congress established the Impact Aid program in 1950.

(2) The Impact Aid program is intended to ease the burden on local school districts for educating children who live on Federal property. Since Federal property is exempt from local property taxes, such districts are denied the primary source of revenue used to finance elementary and secondary education. Most Impact Aid payments are made for students whose parents are in the uniformed services, or for students who reside on Indian lands or in federally subsidized low-rent housing projects. Over 1,600 local educational agencies enrolling over 17,000,000 children are provided assistance under the Impact Aid program.

(3) The Impact Aid program is one of the few Federal education programs where funds are sent directly to the school district. Such funds go directly into the general fund and may be used as the local educational agency decides.

(4) The Impact Aid program covers less than half of what it costs to educate each federally connected student in some school districts, requiring local school districts or States to provide the remainder.

(5) Added to the burden described in paragraph (4) is the fact that some States do not rely upon an income tax for State funding of education. In these cases, the loss of property tax revenue makes State and local education funding even more difficult to obtain.

(6) Given the serious budget constraints facing State and local governments it is critical that the Federal Government continue to fulfill its responsibility to the federally impacted school districts in our Nation's States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that in the assumptions for the overall accounts it is assumed that the Federal Government has a financial responsibility to schools in our Nation's communities which are adversely affected by Federal activities and that funding for such responsibilities should not be reduced or eliminated.

SEC. 319. SENSE OF THE SENATE TO ELIMINATE THE EARNINGS PENALTY.

It is the sense of the Senate that the assumptions underlying the functional totals in this resolution include that the increased revenues resulting from the revision of the expatriate tax loophole should be used to eliminate the earnings penalty imposed on low and middle income senior citizens receiving social security.

SEC. 320. STUDENT LOAN CUTS.

(a) FINDINGS.—The Senate finds that—

(1) in the 20th century, educational increases in the workforce accounted for 30 percent of the growth in our Nation's wealth, and advances in knowledge accounted for 55 percent of such growth;

(2) the Federal Government provides 75 percent of all college financial aid;

(3) the Federal student loan program was created to make college accessible and affordable for the middle class;

(4) increased fees and interest costs discourage college participation by making higher education more expensive, and more of a risk, for students and their families;

(5) full-time students already work an average of 25 hours per week, taking time away from their studies; and

(6) student indebtedness is already increasing rapidly, and any reduction of the in-school interest subsidy will increase the indebtedness burden on students and families.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying the functional totals in this resolution assume the Labor and Human Resources Committee, in seeking to achieve mandatory savings, should do their best to not increase the cost of borrowing for students participating in the Robert T. Stafford Federal Student Loan Program.

SEC. 321. SENSE OF THE SENATE REGARDING THE NUTRITIONAL HEALTH OF CHILDREN.

(a) FINDINGS.—Congress finds that—

(1) Federal nutrition programs, such as the school lunch program, the school breakfast program, the special supplemental nutrition program for women, infants, and children (referred to in this section as ''WIC''), the child and adult care food program, and others, are important to the health and well-being of children;

(2) participation in Federal nutrition programs is voluntary on the part of States, and the programs are administered and operated by every State;

(3) a major factor that led to the creation of the school lunch program was that a number of the recruits for the United States armed forces in World War II failed physical examinations due to problems related to inadequate nutrition;

(4)(A) WIC has proven to be extremely valuable in promoting the health of newborn babies and children; and

(B) each dollar invested in the prenatal component of WIC has been shown to save up to $3.50 in medicaid costs related to medical problems that arise in the first 90 days after the birth of an infant;

(5) the requirement that infant formula be purchased under a competitive bidding system under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) saved $1,000,000,000 in fiscal year 1994 and enabled States to allow 1,600,000 women, infants, and children to participate in WIC at no additional cost to taxpayers; and

(6) a balanced Federal budget will provide economic benefits to children alive today and to future generations of Americans.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying the functional totals in this resolution include the assumptions that—

(1) schools should continue to serve lunches that meet minimum nutritional requirements based on tested nutritional research;

(2) the content of WIC food packages for infants, children, and pregnant and postpartum women should continue to be based on scientific evidence;

(3) the competitive bidding system for infant formula under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) should be maintained;

(4) foods of minimum nutritional value should not be sold in competition with school lunches in the school cafeterias during lunch hours;

(5) some reductions in nutrition program spending can be made without compromising the nutritional well-being of program recipients;

(6) in complying with the reconciliation instructions in section 6 of this resolution, the Committee on Agriculture, Nutrition, and Forestry of the Senate should take this section into account; and

(7) Congress should continue to move toward fully funding the WIC program.

SEC. 322. SENSE OF THE SENATE ON MAINTAINING FEDERAL FUNDING FOR LAW ENFORCEMENT.

(a) FINDINGS.—The Senate finds that—

(1) Federal, State, and local law enforcement officers provide essential services that preserve and protect our freedoms and security;

(2) law enforcement officers deserve our appreciation and support;

(3) law enforcement officers and agencies are under increasing attacks, both to their physical safety and to their reputations;

(4) on April 7, 1995, the Senate passed S.J. Res. 32 in which the Senate recognizes the debt of gratitude the Nation owes to the men and women who daily serve the American people as law enforcement officers and the integrity, honesty, dedication, and sacrifice of our Federal, State, and local law enforcement officers;

(5) the Nation's sense of domestic tranquility has been shaken by explosions at the World Trade Center in New York and the Murrah Federal Building in Oklahoma City and by the fear of violent crime in our cities, towns, and rural areas across the Nation;

(6) Federal, State, and local law enforcement efforts need increased financial commitment from the Federal Government and not the reduction of such commitment to law enforcement if law enforcement officers are to carry out their efforts to combat violent crime; and

(7) on April 5, 1995, and May 18, 1995, the House of Representatives has nonetheless voted to reduce $5,000,000,000 from the Violent Crime Reduction Trust Fund in order to provide for tax cuts in both H. R. 1215 and H. Con. Res. 67.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying the functional totals in this resolution assume that the Federal Government's commitment to fund Federal law enforcement programs and programs to assist State and local efforts should be maintained and funding for the Violent Crime Reduction Trust Fund should not be reduced by $5,000,000,000 as the bill and resolution passed by the House of Representatives would require.

SEC. 323. NEED TO ENACT LONG TERM HEALTH CARE REFORM.

It is the sense of the Senate that the One Hundred Fourth Congress should enact fundamental long-term health care reform that emphasizes cost-effective, consumer oriented, and consumer-directed home and community-based care that builds upon existing family supports and achieves deficit reduction by helping elderly and disabled individuals remain in their own homes and communities.

SEC. 324. SENSE OF THE SENATE REGARDING MANDATORY MAJOR ASSUMPTIONS UNDER FUNCTION 270: ENERGY.

It is the sense of the Senate that within the mandatory major assumptions under budget function 270, none of the power marketing administrations within the 48 contiguous States will be sold, and any savings that were assumed would be realized from the sale of those power marketing administrations will be realized through cost reductions in other programs within the Department of Energy.

SEC. 325. DEFENSE OVERHEAD.

(a) FINDINGS.—The Senate finds that—

(1) the major discretionary assumptions in this concurrent budget resolution include 15 percent

reduction in overhead for programs of nondefense agencies that remain funded in the budget and whose funding is not interconnected with receipts dedicated to a program;

(2) the Committee Report (104–82) on this concurrent budget resolution states that ''this assumption would not reduce funding for the programmatic activities of agencies.''.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committees on Armed Services and Appropriations should make a reduction of at least three percent in overhead for fiscal year 1996 programs of defense agencies, and should do so in a manner so as not to reduce funding for the programmatic activities of these agencies.

SEC. 326. SENSE OF THE SENATE REGARDING THE ESSENTIAL AIR SERVICE PROGRAM OF THE DEPARTMENT OF TRANSPORTATION.

(a) FINDINGS.—The Senate finds that—

(1) the essential air service program of the Department of Transportation under subchapter II of chapter 417 of title 49, United States Code—

(A) provides essential airline access to isolated rural communities across the United States;

(B) is necessary for the economic growth and development of rural communities;

(C) connects small rural communities to the national air transportation system of the United States;

(D) is a critical component of the national transportation system of the United States; and

(E) provides air service to 108 communities in 30 States; and

(2) the National Commission to Ensure a Strong Competitive Airline Industry established under section 204 of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 recommended maintaining the essential air service program with a sufficient level of funding to continue to provide air service to small communities.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the essential air service program of the Department of Transportation under subchapter II of chapter 417 of title 49, United States Code, should receive, to the maximum extent possible, a sufficient level of funding to continue to provide air service to small rural communities that qualify for assistance under the program.

SEC. 327. SENSE OF THE SENATE REGARDING THE PRIORITY THAT SHOULD BE GIVEN TO RENEWABLE ENERGY AND ENERGY EFFICIENCY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES.

(a) FINDINGS.—Congress finds that—

(1) section 1202 of the Energy Policy Act of 1992 (106 Stat. 2956), which passed the Senate 93 to 3 and was signed into law by President Bush in 1992, amended section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12005) to direct the Secretary of Energy to conduct a 5-year program to commercialize renewable energy and energy efficiency technologies;

(2) poll after poll shows that the American people overwhelmingly believe that renewable energy and energy efficiency technologies should be the highest priority of Federal research, development, and demonstration activities;

(3) renewable technologies (such as wind, photovoltaic, solar thermal, geothermal, and biomass technology) have made significant progress toward increased reliability and decreased cost;

(4) energy efficient technologies in the building, industrial, transportation, and utility sectors have saved more than 3 trillion dollars for industries, consumers, and the Federal Government over the past 20 years while creating jobs, improving the competitiveness of the economy, making housing more affordable, and reducing the emissions of environmentally damaging pollutants;

(5) the renewable energy and energy efficiency technology programs feature private sector cost shares that are among the highest of Federal energy research and development programs;

(6) according to the Energy Information Administration, the United States currently imports more than 50 percent of its oil, representing $46,000,000,000, or approximately 40 percent, of the $116,000,000,000 total United States merchandise deficit in 1993; and

(7) renewable energy and energy efficiency technologies represent potential inroads for American companies into export markets for energy products and services estimated at least $225,000,000,000 over the next 25 years.

(b) SENSE OF SENATE.—It is the sense of the Senate that the assumptions underlying the functional totals in this resolution include the assumption that renewable energy and energy efficiency technology research, development, and demonstration activities should be given priority among the Federal energy research programs.

SEC. 328. FOREIGN SALES CORPORATIONS INCOME EXCLUSION.

The assumption underlying the functional totals include that it is the sense of the Senate that cuts in student loan benefits should be minimized, and that the current exclusion of income of Foreign Sales Corporations should be eliminated.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 872 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

THE PRESIDING OFFICER. The Senator from Missouri is recognized.

MR. ASHCROFT. I thank the Chair.

(The remarks of Mr. Ashcroft pertaining to the introduction of Senate Joint Resolution 36 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

The bill clerk proceeded to call the roll.

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

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

LES ASPIN: A PUBLIC SERVANT AND A FRIEND

Mr. DASCHLE. Mr. President, last Sunday the Nation lost one of its foremost leaders on military and defense policies, and I lost a good friend, with the passing of Les Aspin.

I came to know and appreciate Les Aspin when we served together in the House of Representatives, and he and Junket, his huge, hairy sheep dog, shared an office down the hall from me in the Cannon House Office Building.

I came to know and appreciate Les as a good and decent man who was never too busy to stop and exchange a joke with you.

I also came to admire and respect him as a dedicated, selfless public servant. At the time of his death, he had spent more than 3 decades in public service as a Member of the House of Representatives, as chairman of the House Armed Services Committee, as a chief adviser on military policy to the Clinton-Gore campaign, as Secretary of Defense, and as the head of the Foreign Intelligence Advisory Board.

No person could have been better prepared for these important and demanding positions. Les Aspin brought to them the best of education, including an undergraduate degree from Yale, a master's degree from Oxford University, and a Ph.D. in economics from MIT.

And he had the best of training, as he had worked on the staffs of Senator William Proxmire, Dr. Walter Heller when he chaired the Council of Economic Advisers, and Secretary of Defense Robert McNamara.

Not only was Les well educated and well versed in public policy, he was a person who cared deeply for his country and its citizens.

Les Aspin may well be most remembered for his brief, but stormy tenure as the Secretary of Defense. To those who were surprised by his controversial tenure in this position, I can only say that I am surprised that they were surprised.

Les Aspin has always been controversial—he was never afraid to take a position—at times, a lonely, unpopular decision. He was elected to Congress as a critic of the Vietnam war, but backed President Reagan's military buildup and the decision to go to war against Iraq.

As chairman of the House Armed Services Committee, Les Aspin was a one-man think tank, as he always seemed on the cutting edge of defense issues. An AP reporter dubbed him a ''strategic intellectual.'' He was as comfortable in dealing with foreign policy and defense issues as he was in reviewing Pentagon procurement practices. And he had that incredible and marvelous ability to present the most complicated and difficult public policy issues in simple and easily understood ways.

Congressman Aspin was a logical choice to reshape the Pentagon and U.S. military in the post-cold-war era. When President-elect Clinton nominated him for the position of Secretary of Defense, the Washington Post noted that it seemed that Mr. Aspin had ''spent most of his professional life preparing for the defense secretary's job.'' The Washington Times remarked that he had ''devoted nearly every waking hour as a student, professional, and politician to thinking about weapons and soldiers.''

Everyone knew that the adjustments to the post-Soviet world would be difficult and controversial—and they were. Secretary Aspin did not shrink from these challenges. He welcomed them. His time as head of the Pentagon was a time of shifting international commitments, and new challenges posed by the disintegration of the Soviet Union. This included the painful

downsizing of the military and the review and revision of the Pentagon's budget and procurement procedures.

It was a time for the reshaping of a military that for a half-century had been designed to fight global war, and would now be remolded for world peace, keeping missions and for international humanitarian expeditions.

Mr. President, the accolades and eulogies now being delivered in honor of Les Aspin, are well deserved and well earned. The United States is indeed indebted to Congressman and Secretary Aspin for his years of public service, for his legislative achievements, and for his tremendous contributions to the defense of our great and free country.

But I will always remember him as my good and decent friend down the hall, with that huge hairy dog, who was never too busy to stop and share a laugh with you.

Mr. President, my wife Linda and I extend to the family of Les Aspin our most heartfelt condolences. We share their grief and their loss.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO JIM KETCHUM

Mr. DOLE. Mr. President, 25 years ago, we created the Office of Curator of the U.S. Senate. And since that time, that job has been filled by just one man—Jim Ketchum.

Jim has now announced his retirement, and it is entirely fitting that a resolution we adopted earlier this week designated him as curator emeritus of the Senate.

After working in the Office of the White House Curator for many years, Jim came to the Senate in 1970, when he accepted an invitation to organize the Office of Senate Curator.

For the past quarter century, Jim has devoted his career to preserving the works of art in the Senate and the history and traditions of this institution.

Jim was the driving force behind the restoration of the old Senate and old Supreme Court Chambers, the President's room, and countless other important Senate treasures.

Painting and documents have been recovered and preserved due to Jim's tireless efforts. He has helped us all better understand this institution and the Capitol through exhibitions, lectures, publications, and other educational programs.

I know Jim is especially proud of the exhibit, ''a necessary fence * * *: The Senate's first century,'' which opened in the summer of 1989 in celebration of the Senate's bicentennial.

Jim has also made an important contribution to protecting the dignity of this institution by helping to develop legislation prohibiting abuse of the Senate seal.

Finally, one cannot mention Jim without remembering his efforts on behalf of the State of the Union dinners. I am just one of many Senators who has enjoyed one of Jim's trademark chicken pies.

Mr. President, for all that he has done for this institution, Jim has truly earned the designation as ''curator emeritus.''

I know all Senators will join me in thanking Jim for his extraordinary efforts in preserving the history and traditions of this institution, and in extending our best wishes to him, as he and his wife, Barbara, head to their farmhouse in Pennsylvania.

TRIBUTE TO GERALD HACKETT

Mr. DOLE. Mr. President, earlier this week, the Senate adopted a resolution expressing our appreciation for the outstanding service of Gerald Hackett, our Senate executive clerk, who will retire from the Senate effective June 30, 1995.

I now want to add my personal thanks for his many 33 years of dedication to the Senate—nearly 29 of those as Senate executive clerk.

As Members know, the executive clerk assists the Senate with its constitutional duty to consider nominations and treaties under its advise and consent authority. The office's many responsibilities include managing original documents, maintaining records, transmitting copies of Presidential messages, compiling the executive calendar, and preparing all resolutions of confirmation for nominations and resolutions of ratification for treaties.

Gerry has dedicated his Senate service not only to these duties, but also to improving the operation of the executive clerk's office.

He was instrumental in the computerization of the treaty and nomination processes. Moreover, under his direction, publishing the executive journal is now done on-line, with a substantial savings of tax dollars.

I know all Senators agree with me in saying that Gerry has always acted with the best interests of the Senate in mind, and in wishing him and his wife, Mary Ellen, best wishes for a long, healthy, and happy retirement.

TRIBUTE TO FRED BROOMFIELD

Mr. DOLE. Mr. President, earlier this week, the Senate adopted a resolution paying tribute to Fred Broomfield, a member of the Department of Office Services in the Office of the Secretary of the Senate, who will retire July 15, 1995.

Fred has worked in the Office of the Secretary for over 19 years. Among his numerous responsibilities is to deliver to our offices the many many important documents necessary for the legislative process.

In fulfilling those duties, Fred has ably carried out a tradition that dates back to the very beginning of the Senate. Just 2 days after the first Senate convened in 1789, the Members elected their first Secretary and chose their first messenger. And if I am not mistaken, the first message was delivered to Senator THURMOND.

Fred is well known in the Secretary's office as a loyal, reliable, and hard working civil servant. He will be missed by all of us.

I know all Senators will join with me in thanking Fred, his wife Hilda, and his five children for his dedicated and distinguished service, and in extending our best wishes for a long and healthy retirement.

THANKING RUSSELL KING

Mr. DOLE. Mr. President, in my role as Senate majority leader, I also serve as a member of the Joint Leadership Commission for our program for America's young people, the Congressional Award.

As such, it is my responsibility, from time to time, to appoint individuals to serve on the Congressional Award Foundation's board of directors, which works with us to implement the program nationwide.

Several years ago, when we were reorganizing the volunteer board, I asked Russell King, a senior vice president of Freeport-McMoran, if he would be willing to serve, and to make this program a truly national opportunity. He agreed, and has since become the foundation's treasurer, and two-term chairman, where he has presided over the exciting growth of the program.

As Russ ends his tenure as chairman, I extend the appreciation of the Senate to him for his tireless devotion to the Congressional Award, and for his commitment to America's youth. We are fortunate that he will remain on the board, and will continue to work with us as this outstanding program grows throughout the country.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from Maine

MARGARET CHASE SMITH

Mr. COHEN. Mr. President, recently Senator Margaret Chase Smith suffered a severe stroke and is now in critical condition at her home in Maine. I just want to take a few moments to express my deep regret over this recent turn of events and to spend a few moments talking about Senator Margaret Chase Smith.

I think as the Senator from Alaska knows, and virtually all the Members of this Chamber know, Senator Smith served with distinction in the Senate from 1949 to 1973 in the seat I now occupy. Directly before that she served four terms in the U.S. House of Representatives.

Many in this Chamber know of this wonderful woman's accomplishments. She was the first woman to have her name placed in nomination for President by a major political party; she cast an impressive 2,941 consecutive roll call votes; she delivered her famous Declaration of Conscious speech in 1950 criticizing Senator Joseph McCarthy and his stormtrooper tactics in exposing suspected communists.

During her Declaration of Conscience speech, Senator Smith remarked that Senator McCarthy's investigation was playing on Americans' worst fears and was chipping away at the soul of the country. She said the Senator and his supporters were parceling away individual freedoms and liberties in the name of a fight that history has proved to be wrongheaded. In that speech, she noted,

> Those of us who shout the loudest about Americanism in making character assassinations are all too frequently those who, by our own words and acts, ignore some of the basic principles of Americanism—The right to criticize; the right to hold unpopular beliefs; the right to protest; the right of independent thought. The exercise of these rights should not cost one single American citizen his reputation or his right to a livelihood nor should he be in danger of losing his reputation or livelihood merely because he happens to know someone who holds unpopular beliefs.

To understand the significance of the speech, and the courage of the woman who delivered it, we must remember the times during which it was delivered. These were days when it would have been easy to join the crowd—days when many were barking at every shadow, challenging and accusing anyone who disagreed with popular opinion as being disloyal. It was a phenomenon we have not seen since in American politics. It was not simply a group or a movement or a passing fad—it was a tidal wave of hatred and suspicion that engulfed many of the supposedly thoughtful politicians of the day.

There have been many occasions when I also invoke the name of Joan Benoit. Joan Benoit, who hails from Maine, was the great marathon runner. Many of us can recall that moment when she broke out in that marathon, and she began so fast she moved away out ahead of the crowd and every one of the commentators said, ''She can never maintain that pace. She will fall behind.''

To the astonishment of virtually everyone who watched that historic event, she not only maintained the pace but she continued it throughout the entire marathon race.

Throughout her career, Margaret Chase Smith has set her own pace, charted her own course, ignored her critics and never looked back at those who followed far behind her leadership. She has known the glory and loneliness, I should say, of the long distance runner.

When thinking of Senator Smith, I am reminded of an ancient proverb that says, ''When drinking water, don't forget those who dug the well.''

Americans are, by nature, a forward-looking people. But, as the proverb suggests, we should also pay tribute to those who have gone before us, those who have paved the way for us and for future generations. We should remember those who have dug the well. Margaret Chase Smith dug the well for me and for many Maine politicians.

Senator Smith has also remained politically active following her retirement from the Senate. With the Senator's support, the Margaret Chase Smith Center for Public Policy was created in 1989 to serve as a nonpartisan public service organization at the University of Maine. Through the center, university students and other scholars study public policy and work to improve the quality of dialog on policy issues. It has greatly enhanced the study of politics at the University of Maine, and it is a fine testament to the impact that Senator Smith had on Maine and the country.

In America, every person stands equal before the law, but in politics, the aristocracy of talent is supreme. Maine can rightfully take pride in the fact that Margaret Chase Smith has stood at the top of that aristocracy.

I thank the Chair and Senator DOLE for yielding this time.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

SENATOR MARGARET CHASE SMITH

Mr. DOLE. I thank the distinguished Senator from Maine. Having had the honor and privilege, as did the Presiding Officer, of serving with Senator Margaret Chase Smith, I can certainly appreciate his remarks. I can almost see her seated at that desk, with a rose—there was a rose there every morning on her desk. We certainly wish her well.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, it had been our hope that we could have appointed conferees today on four major pieces of legislation: Medicare select, regulation reform, product liability, and line-item veto. But for a number of reasons we are not able to do that today. We hope to be able to be in a position to appoint conferees in all four of those measures when we return on Monday, June 5. At least we will make the effort. If there is objection at that time, the objection will be noted.

We have done all the nominations on the calendar with one exception, because I had requests from some of my colleagues that we make certain we did that before recess. They have been done.

I would say it will be my intention now, when we come back on Monday, to stay with the terrorism bill at least through Monday to see what happens. I apologize to Senators PRESSLER and HOLLINGS because we thought we would go to the telecommunications bill that day, but we did lose a day yesterday with the votes. In the last 2 days we had 50-some votes. We might have been able to finish the terrorism bill this week. So we will make an effort on Monday, June 5, and maybe up through noon on Tuesday, and at that point we will see what the situation is, how many amendments are remaining, whether or not we can have time agreements. But it is still my hope to go to the telecommunications bill early the week we are back.

ORDERS FOR MONDAY, JUNE 5, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate reconvenes at 10 a.m. on Monday, June 5, 1995, that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day; there then be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak for up to 5 minutes each.

I further ask consent at the hour of 11 o'clock the Senate resume consideration of S. 735, the antiterrorism bill.

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

Mr. DOLE. Mr. President, I should have said at the outset, this has been cleared by the Democratic leader.

PROGRAM

Mr. DOLE. So I would say for the information of all Senators, when the Senate is reconvened following the Memorial Day recess, we will resume consideration of the antiterrorism bill. Under the previous consent agreement, amendments are limited to the bill. Therefore Senators should be aware that rollcall votes can be anticipated on Monday. However, we will have no rollcall votes until—they will not begin before 5 o'clock on Monday, June 5. Both Senators BIDEN and HATCH have indicated to both leaders, Democratic and Republican leaders, that they will have amendments. There will be votes. And that they will be prepared at 11 o'clock on Monday, June 5, to move forward as rapidly as possible on the antiterrorism bill.

ADJOURNMENT UNTIL MONDAY, JUNE 5, 1995, AT 10 A.M.

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of House Concurrent Resolution 72.

There being no objection, the Senate, at 2:20 p.m., adjourned until Monday, June 5, 1995, at 10 a.m.