United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, THURSDAY, SEPTEMBER 28, 1995 No. 153

Senate

(Legislative day of Monday, September 25, 1995)

The Senate met at 9 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:

Let us pray:

Here is an exciting Biblical promise to start our day:

''God is able to make all grace abound toward you, that you, always having all sufficiency in all things, may have an abundance for every good work''.—II Corinthians 9:8.

Gracious Father, we thank You for Your amazing grace, Your unqualified love and forgiveness, and Your limitless strength that flows from Your heart into our hearts, filling up our diminished reserves. It is wonderful to know that You have chosen to be our God and have chosen us to belong first and foremost to You. We clarify our priorities and commit ourselves to seek first Your will and put that above all else. It is liberating to know that You will supply all we need, in all sufficiency, to discern and do what glorifies You. Grant us wisdom, Lord, for the decisions of this day.

We ask this not for our own personal success but for our beloved Nation. America deserves the very best from us today. Experience has taught us that You alone can empower us to be the dynamic leaders America needs. Fill us with a new passion for patriotism and fresh commitment for the responsibilities of leadership You have entrusted to us.

In the name of Jesus. Amen.

(Mr. ASHCROFT assumed the chair.)

HISTORIC WHITE HOUSE CEREMONY

Mr. SPECTER. Mr. President, in the absence of other Senators in the Chamber to debate the motion to proceed, and I know my colleagues will be arriving shortly, I think it appropriate to take a few minutes to comment on a historic ceremony which will take place at the White House at 12 noon today when the leaders of Israel and the Palestinian Liberation Organization are scheduled to sign a historic agreement.

I well recall the day, a little over 2 years ago, 2 years and 15 days ago, on September 13, 1993, when Prime Minister Rabin and PLO Chairman Yasser Arafat signed the initial agreement.

I must say that was a difficult day for me personally to watch Yasser Arafat honored at the White House after the long record of terrorism in which the PLO had engaged, including being implicated in the murder of the charge d'affaires at the United States embassy in the Sudan in 1974, the No. 2 United States official in that country, the hijacking of the *Achille Lauro* and the death of Mr. Klinghoffer, and many other acts of terrorism.

It seemed to me, as I think it did to most other Americans, that if Israel—the prime victim of the terrorist attacks by the PLO—through its leaders, Prime Minister Rabin and Foreign Minister Peres, were willing to shake hands with Yasser Arafat under those circumstances, that the United States should do what it could to facilitate the peace process. That is in deference to the leaders of that sovereign state.

I also recall when a letter was circulated on the floor of the U.S. Senate criticizing then Prime Minister Shamir for refusing to give land for peace. I was one who refused to sign that document on the proposition that U.S. Senators thousands of miles away from turmoil ought not to try to influence, let alone dictate, policies to the leaders of other sovereign states under those circumstances.

Now, after very protracted negotiations, we have Prime Minister Rabin and Foreign Minister Peres and Chairman Arafat coming to the White House today to sign this historic agreement.

During the course of the past several weeks, Senator HANK BROWN of Colorado and I have had occasion to travel, including a trip to the Mideast to talk to the leaders of the nations there. After being there, Mr. President, I have a sense of guarded optimism about the future of peace in the Mideast.

I have traveled into that region extensively, going back to my first trip there in 1964. I do have very substantial reservations as to the adequacy of the PLO, the Palestinian response, and the response of Yasser Arafat to eliminate terrorism in the area.

Last year, Senator SHELBY and I introduced an amendment to the foreign operations bill which would have cut off United States aid if the PLO and Chairman Arafat did not take steps to curtail terrorism, and also to amend the PLO charter to eliminate the provisions which called for the destruction of Israel.

Frankly, Mr. President, I am not satisfied with what Chairman Arafat has done in either regard.

There has been the explanation, really an excuse, that they could not amend the charter because there was not a convening Palestinian authority at that time. Also, Chairman Arafat has said that he has taken certain action to declare those provisions null and void, but I think realistically much more could have been done.

Similarly, on the critical issue of stopping terrorism, I think a great deal more could have been done by Chairman Arafat on that important aspect.

Senator BROWN and I had an opportunity to meet with Chairman Arafat, and we asked him those questions very directly. We asked him why he did not do more to control Hamas, why he did not turn over individuals in the Palestinian group who were suspected of murder.

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

Printed on recycled paper containing 100% post consumer waste

When we went over a detailed list, for each one there was an explanation, really an excuse. Some of the acts of terrorism or murder occurred before the agreement was signed; in other cases, the appropriate Israeli officials had not filed the cases; in other cases, the papers were not precise.

We challenged Chairman Arafat on why he made speeches condemning terrorism in English and not in Arabic, and although it is plain he has made the speeches in English and not in Arabic, he said his English was not good and made the contention that he had, in fact, made the speeches in Arabic. He continues to make speeches which poison the atmosphere in which both parties seek a peaceful resolution to the conflict.

When pressed as to why he did not do more to control Hamas, he made an explanation that he himself was under threat of assassination from the Hamas who are in part directed from Syria.

Later in the conversation we discussed the Syrian Government and President Assad of Syria. Chairman Arafat said President Assad was a good friend of his, which led to the inevitable question: How could threats of terror and assassination come from the Hamas in Syria, when President Assad was a good friend? And Chairman Arafat, in an effort to smile, said, ''Well, that's his style,'' confirming the great difficulties which are present in the Mideast.

Mr. President, I would like to make some additional comments about the historic meeting which is scheduled in less than an hour at the White House where a very significant agreement will be signed between the State of Israel and the Palestinians, the PLO.

I had commented earlier about a trip which Senator BROWN and I had made recently, including a stop in the Mideast. I have been a student of the issues there for many years, having made my first trip there in 1964, and in the last almost 15 years I have been a member of the Foreign Operations Subcommittee of Appropriations and have done considerable work there and am cautiously optimistic about the prospects for peace in the Mideast.

It is a matter of grave concern, however, to note the continuous, horrible terrorist attacks on Israel which have been maintained, notwithstanding efforts of the Israeli Government to stop them and the pressure which the United States Government has tried to apply to Chairman Yasser Arafat and the PLO to contain those terrorist attacks.

Last year, Senator SHELBY and I offered an amendment, which was adopted, which conditioned United States aid to the Palestinians on the PLO making every conceivable effort to stop the terrorist attacks and also for the PLO to take out the language from the PLO charter calling for the destruction of Israel.

I considered renewing that kind of an issue in the legislation which was recently passed in the foreign aid bill and decided not to press the matter at this time when the negotiations were so sensitive and so near agreement. But it is with considerable reservation that I see U.S. aid going forward. There are conditions that exist in law which call upon Chairman Arafat and the PLO to do their utmost to stop terrorist attacks. Nobody can ask them to be a guarantor or with absolute certainty to stop those terrorist attacks, but it is an issue as to whether they are making their maximum effort.

Frankly, I have doubts about this. To reiterate my earlier remarks, when Senator BROWN and I were in Israel, we visited with Chairman Arafat in the Gaza and asked him a number of very direct, pointed questions.

First, on the subject as to why he spoke in English and not in Arabic when he was denouncing terrorism. Chairman Arafat denied that he always spoke in English and said that his English was not good and said that he had spoken in Arabic. We then challenged him on a number of alleged murderers who were being protected by the PLO, as to why they were not turned over to Israel.

Chairman Arafat then deferred to one of his subordinates who raised one explanation, really, one excuse after another saying that some of the incidents had occurred prior to the time the agreement was signed and some the Israeli Government had not made the proper demands, the proper papers were not filed.

But it seems to me, Mr. President, that Chairman Arafat could do a great deal more than he is doing at the present time to restrain terrorism. I believe that the U.S. Congress, certainly the executive branch but also the Congress, must be alert on this very, very important issue.

On the issue about pressing Chairman Arafat about stopping terrorism for the Hamas, Chairman Arafat responded the Hamas had even threatened his life coming out of Syria or coming out of Iran. He later said that President Assad was a good friend, which led to the obvious question about how a good friend would be tolerating the Hamas which made threats on Arafat's life. Arafat said, well, that is President Assad, hardly an understandable explanation.

Also as part of our trip, Senator BROWN and I visited other countries, and wherever we went, we were struck with the greatest respect and admiration that the United States has held all around the world. There is enormous prestige, there is enormous power, there is enormous good will for the United States to be an intermediary and a broker for peace.

When Senator BROWN and I were in India, for example, we talked to Prime Minister Rao, who said that he would like to see the subcontinent nuclear free in the next 10 to 15 years.

The next day, I talked to President Benazir Bhutto and told her of the Indian Prime Minister's statement. She said, ''Do you have it in writing?'' She was very surprised.

We then wrote to the President telling him of our conversations and suggesting that he take the initiative to try to broker a peace between those two nations, where there is such enormous hostility.

I compliment President Clinton and Secretary of State Christopher for their leadership, which has been instrumental in bringing about the agreement which is scheduled to be signed within the hour at the White House and for their efforts and success in the agreement which was signed back on September 13, 1993. And I do believe that an activist President, who really exerted leadership on a worldwide basis, could do a great deal around the world, as, for example, in bringing the Prime Ministers of India and Pakistan together.

I see that my distinguished colleague, Senator NICKLES, has come to the floor. I shall conclude, Mr. President.

I ask unanimous consent that a text of my report on the foreign travels, some of which I have commented about this morning, be printed in full in the CONGRESSIONAL RECORD.

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

SENATOR SPECTER'S REPORT ON FOREIGN TRAVEL

During the period of August 20–September 2, 1995, Senator Hank Brown and I traveled to ten countries in two weeks and met with heads of state of eight of these countries.

TAIWAN

We departed on August 20, 1995 and arrived in Taipei, Taiwan on August 22, 1995, after having crossed the international date line. At 5:00 pm, we had a lengthy meeting with Taiwan's President Lee Teng-hui. We discussed President Lee's private visit to the United States to visit his alma mater, Cornell University from June 6–10, 1995, and the People's Republic of China's (PRC's) retaliation for that visit by conducting live missile tests wherein the PRC fired 6 missiles targeted 85 miles north of Taiwan's coast—2 missiles from Manchuria, 2 missiles from northwest China and 2 missiles from Central China.

President Lee also detailed the ''One China'' policy, under which both Taiwan and the PRC believe that there is only one China. Taiwan and the PRC differ, however, in that the PRC insists Taiwan is part of China and that there can be two systems operating in one country. Taiwan, on the other hand, has taken the position, through its national unification guidelines, that the PRC must realize certain political and economic reforms before the unification may occur.

We also discussed our concerns regarding the current trade imbalance between Taiwan and the U.S. President Lee assured us that he has been working hard to reduce the trade imbalance. He noted that his efforts have led to a drop in the trade deficit from $16.5 billion to $6 billion and that he personally is committed to reducing the deficit by at least 10 percent per year by expanding Taiwanese purchases of U.S. exports and reducing tariffs on imported U.S. products.

On the evening of August 22nd, we had a working dinner with Taiwanese Foreign Minister and former Ambassador to the United

States Frederick F. Chien. We discussed Taiwan's political reforms and its movement toward freedom of the press, open elections and democratization. We also discussed at greater length the One China policy and Taiwan's diplomatic and economic relations with the PRC.

Dr. Lyushun Shen, the Director of Public Affairs at the Taipei Education and Cultural Representatives Office in Washington, D.C., noted that the PRC's recent missile firings have had a strong impact on Taiwan's stock market, with the index dropping 200 points the first day and 1000 points overall, from 5500 to 4500.

CAMBODIA

On Wednesday, August 23rd, we departed Taipei at 6:45 am. We arrived in Phnom Penh, Cambodia for an early meeting with King Norodom Sihanouk. The King detailed his image of the future of Cambodia, including his assessment that every Cambodian is determined, and he is personally committed, to ensure the continuation of a liberal democracy, along with a multiparty system and free press, coupled with a free market economy.

We spoke to King Sihanouk regarding the importance of protecting human rights. In response, he observed that human rights groups are active in defending their rights, without interference from the government. Further, he stated that when the 1st Prime Minister did not want to allow the United Nations to maintain an office in Cambodia for human rights, the King insisted, and succeeded in allowing the office to remain open.

I asked King Sihanouk about the continued threat of the Khmer Rouge and Pol Pot to the security and stability of Cambodia. He dismissed the Khmer Rouge as a small movement of communist extremists centered near the Thailand border. According to the King, the Khmer Rouge has been severely decimated by 10,000 defections over the last several years, leaving primarily a small band of hardliners, totalling no more than 6,000.

We also raised our concerns about the expulsion of Sam Rainsy from Parliament because of his criticisms of the government. The King responded that party issues are private issues between each Member of Parliament (MP) and the party on which they stood for election. Since Rainsy ceased to represent and support the party platform on which he was elected, the King reasoned, he could be removed from the party. Upon such removal, he continued, Rainsy could then be removed from Parliament because he no longer was a party member.

After our meeting with King Sihanouk, we met with Cambodia's 2nd Prime Minister Hun Sen, who is currently in a power sharing relationship with the 1st Prime Minister Prince Ranariddh Sihanouk. We discussed with Mr. Sen whether he has any differences with the 1st Prime Minister and whether he plans to challenge the 1st Prime Minister in the upcoming elections in 1998. Mr. Sen acknowledged that he and the 1st Prime Minister are from different political parties, but that the two parties will join together as allies in the upcoming elections rather than fielding opposing slates of candidates, and that Mr. Sen would not challenge the 1st Prime Minister for the position of 1st Prime Minister.

Mr. Sen expounded at some length about the benefit of a political alliance before and after an election rather than a divisive fight before an election and an alliance afterwards. Such a system, Mr. Sen argued, is the most secure and the most democratic. We suggested that when opposite parties combine forces, it eliminates competition and the voters are not given a choice of differing platforms. Mr. Sen responded that his main objective is political stability and that the Cambodian system does not end pluralism, but instead, ensures pluralism with cooperation. He also noted that in a country without the long tradition of democracy and the mechanisms for elections that we enjoy in the U.S., if the two main parties did not cooperate, it would be impossible to even install a ballot box at the polls, much less conduct a free election.

Mr. Sen further opined that the Cambodian government is not like the Democrats and Republicans in Congress. If the Cambodian People's Party (CPP) withdrew from its alliance with the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC), the government would collapse, and conversely, if the FUNCINPEC party withdrew from the alliance the government would also collapse. So, according to Mr. Sen, in Cambodia the two top political parties must cooperate together to ensure that democracy continues.

After our meeting with Mr. Sen, we met briefly with several prominent representatives of human rights organizations in Cambodia, along with some Cambodian elected officials. The focus of the discussion was on the expulsion of Rainsy from Parliament and the concerns of those who fear that the government may oust them in a like fashion from Parliament for criticism of the government

Although Cambodia claims to have adopted the German model of Parliamentary government, the human rights leaders noted that under German Parliamentary Rules, a Member of Parliament may only be expelled from the party. The MP cannot be expelled from Parliament even if that MP was elected on a party slate. Instead that MP would hold the seat until the next elections at which time the party could select a different individual as the designated MP for that area.

We had a country team briefing by embassy staff about Cambodia's political and economic stability. We were briefed on the Khmer Rouge insurgency and the limited threat posed by the Khmer Rouge in Phnom Penh. It was noted that defections in their ranks have reduced the Khmer Rouge to 6,000–7,000 individuals, down dramatically from 30,000–40,000 in the mid 1970's.

We asked why the U.S. should continue its annual aid to Cambodia, which currently totals $40 million. The response was that U.S. aid, which primarily takes the form of humanitarian assistance, medical training and military training in joint exercises, all help to strengthen democratic forces in Cambodia and lessen the need for larger expenditures by limiting the danger of confrontation in the future. Robert Porter, the U.S. Deputy Chief of Mission also observed that joint training exercises help enhance U.S. military readiness by giving U.S. personnel on-site training in tropical climates, conditions and cultures.

We also met with Prince Ranariddh Norodom, the 1st Prime Minister (and son of King Sihanouk), and expressed our interest in seeing an improvement in the movement toward democracy and free elections. In particular, we discussed the creation of a Constitutional Council in Cambodia to review all laws and determine whether they conform with the Cambodian Constitution. The 1st Prime Minister expressed an interest in finalizing the Constitutional Council due to the fact that the National Assembly had already passed 40 laws which have not yet been adjudged Constitutional.

When pressed on the importance of ensuring constitutional and democratic governance, the 1st Prime Minister responded that Cambodia is a constitutional government which was supported by a large majority on election day. He further noted, however, that the current government must be compared to the previous autocratic and ruthless regime of Pol Pot and the Khmer Rouge. In addition, with the small but continued threat of the Khmer Rouge, the current government must be particularly sensitive to the importance of internal security.

We raised our concerns about the explusion of MP Rainsy from Parliament and the implication of this expulsion on the growth of democracy in Cambodia. He emphasized that Cambodia needs political stability now, with the two parties united together. If someone wants to oppose the party and the government then that party should leave the party and form their own party.

On the issue of freedom of the press, the 1st Prime Minister stated that freedom of the press in Cambodia is not bad, particularly when compared to press freedoms in countries in the region, such as Thailand, Singapore, Malaysia and Indonesia—and those countries do not have comparable security problems. He said currently, there are over 50 newspapers that have full freedom to criticize the government and many actively oppose the government, all without criminal penalties. The 1st Prime Minister noted ruefully that many of the cartoonists seem to take great pleasure in lampooning him.

The 1st Prime Minister then discussed his strategy for reducing poverty and thus encouraging the Khmer Rouge to leave Pol Pot and join the Cambodian government through improvements in education, agriculture and rural roads.

MYANMAR

We departed Cambodia and arrived in Yangon, Myanmar, where we were briefed by U.S. embassy personnel, led by Charge d'Affaires Marilyn Meyers. There is currently no U.S. ambassador to Myanmar, nor has there been since December, 1990, when the U.S. withdrew its ambassador to protest the government's refusal to honor the results of a free election.

We were briefed on the poor condition of democracy and human rights in Myanmar. In the 1990 elections, the State Law and Order Restoration Council (SLORC) refused to honor the results of a landslide electoral victory by the National League for Democracy (NLD) led by Aung San Suu Kyi. In that election, opposition parties won 80% of the seats in Parliament.

We were also briefed on the tremendous problem with narcotics trafficking in Myanmar. Our reports indicate that over 60% of the heroin passing through the ''golden triangle'' of southeast Asia passes through Burma on its way to distribution in the United States and across the world. The government has apparently sought to combat the narcotics trade by limited incursions against known drug lords. The U.S. Drug Enforcement Agency (DEA) has provided training and funds to the government to assist it in its efforts at detection and eradication of narcotics.

After the country team briefing, we met with Lt. General Kim Nyuet of the SLORC. We conveyed our concerns over the imprisonment of Aung San Suu Kyi and the lack of democracy in Myanmar. General Nyuet expounded at length about Myanmar's unique characteristics, noting that the country is comprised of 135 different races of people, with different customs, languages and religions.

The General claimed that the 1990 elections were marred by uprisings and violence—including beheadings in center city Yangon—which resulted in a breakdown of the government machinery. As a result of this breakdown and the ensuing public dissatisfaction, Nyuet argued, there emerged a need for law and order as the first priority for keeping the country together.

We emphasized to General Nyuet the importance of human rights as the linchpin to warmer relations between Myanmar and the U.S., and advised the General that Congress is considering an amendment by Senator McConnell that would impose stringent sanctions against Myanmar until there is concrete improvement in democracy and human rights. In particular, I advised him that the U.S. will closely monitor progress on a Constitutional Convention and the release of all political detainees. When I asked him whether Aung San Suu Kyi would be named to participate in the Convention, he shrugged and said that all the delegates had already been chosen.

Although I applauded his recent release of 1991 Nobel Peace Prize laureate Aung San Suu Kyi, we advised General Nyuet that SLORC can and should remove its remaining restrictions on Aung San Suu Kyi, including the monitoring of her meetings and harassment and intimidation of individuals with whom she meets. I also urged him to reconsider his suggestion that Aung San Suu Kyi would not be allowed to be a delegate to the Constitutional Convention.

The next morning, August 25th, we had the privilege of meeting Aung San Suu Kyi for breakfast. She was a very warm, dynamic, and impressive person who conveyed an intense desire for democratic reforms and improvements in human rights in Myanmar.

She spoke passionately and poetically about the importance of dialog as the means for resolving conflict peacefully. Every situation of conflict ends in dialog, she noted, so intelligent people should be able to go directly to dialog without the need for devastation. Dialog is inevitable, and the sooner this dialog begins, the better.

She also discussed the nearly 6 years she spent under house arrest without any charges and no trial and the similar treatment accorded to many of her fellow country men and women.

INDIA

Later that afternoon, we flew to New Delhi, where we met with Foreign Minister Pranab Mukherjee, India's Ambassador to the United States S.S. Ray, and other Indian officials for dinner at the Foreign Minister's residence.

The main focus of our discussions was the relationship between India and Pakistan. In particular, we discussed the tremendous tensions between these two countries over the situation in Kashmir, terrorism and nuclear weapons. Our hosts spoke emphatically about the need to maintain sanctions against Pakistan for the purchase of missile component parts from China and the importance of supporting the Pressler amendment which would keep these sanctions in place. They noted that any movement away from these sanctions, particularly any legislation that would allow Pakistan to receive military equipment, would send the wrong signal and damage the relationship between the U.S. and India.

We related to the Indian officials Aung San Suu Kyi's discussion of the importance and inevitability of dialog as a means to resolve all conflicts, and we asked them if the U.S. could do anything to facilitate greater dialog between India and Pakistan. They expressed an interest in achieving an agreement that would enable both sides to lessen their expenditures on border troops and military equipment and that would lessen the growing tension between the two countries on issues of nuclear proliferation and first strike limitations.

The next morning, August 26th, we met privately with India's Prime Minister Narasimha Rao. He expressed a deep concern about India's arms race with Pakistan and noted that India has taken an important step by decreasing its military budget.

He also stated that he would be very interested in negotiations which would lead to the elimination of any nuclear weapons on the Indian subcontinent within ten or fifteen years, including renouncing the first strike use of such weapons. His interest in such negotiations with Pakistan would cover bilateral talks or would encompass a regional conference including participation by the United States, China and Russia, in addition to India and Pakistan. When I pressed him on whether his proposal would include international inspections, he said that he did not want to get involved in details, but that India has experts working on all details on all related matters.

PAKISTAN

On August 27th, we departed India and flew to Islamabad, Pakistan, where we had a meeting and subsequent dinner with President Farooq Leghari. We discussed the importance of establishing peace in the region by addressing the problems of terrorism and nuclear containment.

On the issue of terrorism, we expressed our concern about the role of Iran in fostering revolutionary and religious fervor, manifesting themselves in acts of terrorism. President Leghari stated his belief that Iran still contains extremist elements but that the voices of moderation predominate. He noted that opening trade and dialog with Iran will help to reduce its insecurity and bring it back into international fold.

The next morning, August 28th, we had breakfast with Prime Minister Benazir Bhutto. She expressed genuine surprise over the content of our discussions with India Prime Minister Rao with respect to an agreement to dismantle all nuclear weapons on the Indian subcontinent within 10 to 15 years. She stated that this was the first time that she had heard any such commitment from India and she asked if we could get Mr. Rao to put his agreement in writing.

When we pressed her on the importance of dialog between India and Pakistan, and asked her when the last time was that she spoke with India Prime Minister Rao, she said that she had not spoken with him since she became Prime Minister. She noted that she had attempted to begin a dialog at the Foreign Secretary level, but that the talks were disbanded when India initiated military hostilities against Pakistan. She also related the perception in Pakistan that she is soft on India precisely because she was seeking a dialog with India.

We suggested to Prime Minister Bhutto that the U.S. would be willing to serve as an intermediary between the two countries to facilitate this dialog, particularly in the area of nuclear containment. Ms. Bhutto responded that since Pakistan is the one targeted by India's missiles, and because Pakistan lacks the capability to launch a 1st strike, it is more appropriate for India to renounce a first strike option unilaterally.

I wrote a letter to President Clinton summarizing our meetings with Prime Ministers Rao and Bhutto and suggesting that it would be very productive for the United States to initiate and broker discussions between India and Pakistan regarding nuclear weapons and missile delivery systems. A copy of this letter is attached to this report.

On the issue of Pakistan's purchase of M–11 missile components from China, Ms. Bhutto denied that Pakistan had ever purchased or possessed such missiles. She noted that Pakistan would not be under such pressure to develop nuclear capabilities if India had not acquired such capabilities, and that Pakistan only began developing its nuclear program in 1974, after India detonated its first nuclear test.

She also questioned the continuing U.S. sanctions against Pakistan for the purchase of these components, noting that the U.S. had originally levied sanctions against both China and Pakistan for the sale and subsequently removed the sanctions only from China.

Ms. Bhutto agreed with our suggestion that the U.S. could perform a critical role as a third party mediator between India and Pakistan on nuclear as well as conventional weapons. She remarked that there has never been an understanding between India and Pakistan unless a third party has mediated, and she stated her belief that Prime Minister Rao would be the ideal person to participate in such negotiations because he is now in a position to be a statesman.

At a press briefing, we commented on our discussions with the Prime Minister of India and Pakistan on possible discussions to remove the nuclear threat from the subcontinent.

Shortly thereafter, the Indian government through its embassy in Washington, D.C. sought to deny Prime Minister Rao's statements on negotiations on nuclear disarmament by claiming that our meeting covered only the 1988 Rajiv Gandhi Action Plan on nuclear disarmament. We did discuss the issues set forth above and we did not discuss the Gandhi Action Plan.

SYRIA

We departed Islamabad on August 28th for Damascus, Syria. The next morning, we met with Foreign Minister Farouk al-Sharah. Our discussion with Sharah had barely begun when he complained about the nuclear threat posed by Israel.

I asked Mr. Sharah if Syria fears that Israel will use nuclear weapons against Syria. Interestingly, Mr. Sharah acknowledged his concern, but noted that Israel would not likely detonate a nuclear device because any such use, in a region where the nations are so close together, would affect Israelis as well as Syrians.

When asked if Syria had developed nuclear capabilities, Mr. Sharah responded that it is important that nations develop nuclear capabilities for peaceful uses and acknowledged that Syria is moving in this direction, while remaining a party to the Non Proliferation Treaty and cooperating with international inspections.

We also discussed that status of peace talks between Syria and Israel and the importance of dialog between the two nations. Mr. Sharah expressed his concern over the deadlocked talks, and opined that Israeli Prime Minister Rabin may be feeling electoral pressure such that an agreement may be possible only after the Israeli elections. Although the two sides have not completed agreement on any components of the peace talks, there was agreement on the principles of security arrangements between the two nations.

On the issue of the Golan Heights, Mr. Sharah stated his belief that if the Israelis did not intend to withdraw from the Golan Heights, then they would not have entered the peace discussions to begin with, and that a full peace can be achieved only by a full withdrawal from the Golan.

With respect to terrorism, we discussed the importance of ending support for terrorism. Mr. Shara denied any complicity in the acts of terrorism by Hamas and the Jezbollah, or any training by these groups in Syria.

We also discussed Saddam Hussein and the situation in Iraq. Mr. Sharah noted that King Hussein's recent speech in which he condemned the Iraqi dictator apparently had been favorably received by Saddam, since the speech was transmitted in its entirety on Iraqi television. When I asked Mr. Sharah if

he believed it is possible to bring Saddam back into the family of nations, he responded that he did not believe it is possible.

After meeting with Mr. Sharah, we had a very instructive meeting with President Hafiz al-Asad. He stated there will be peace between Syria and Israel and advised us not to be too impatient about the current peace negotiations. He noted that he thinks Mr. Rabin should move forward on these peace talks and accomplish something before the elections because of his platform for peace.

ISRAEL

We left Damascus and flew to Tel Aviv on the evening of August 29th. The next morning, we had several meetings with Israeli officials, commencing with a breakfast meeting with Yaacov Frenkel, the Governor of the Bank of Israel, in which we discussed Israel's efforts to expand trade and tourism between Israel and its Arab neighbors. We also discussed the importance of U.S. aid on Israel's economy. Mr. Frenkel remarked that this aid is critical to Israel because of the statement it makes to the Israeli people about the American government's continued support of Israel and because of Israel's costs of pursuing peace and financing the tremendous inflow of immigrants, which total 80,000 to 90,000 yearly.

We were then briefed by U.S. Ambassador Martin Indyk and his staff on the status of Israeli-Syria peace talks. The U.S. had previously set the groundwork for the peace talks when our Secretary of State announced an agreement that Israel and Syria would have meetings in three stages; first, between the Chiefs of Staff; second, between senior military staff, and finally between the heads of state. After the 1st stage, but before the meeting of the military officers, President Asad changed his mind and stated that there must 1st be agreement on the issue of Early Warning systems before the talks could proceed.

We were advised that at this point, then, the Israeli government has turned its attention to its peace talks with the PLO, and away from the Syrian negotiations. The negotiations with the Palestinians have moved at a rapid pace, with the agreement 90% complete.

We then had lunch with key Palestinian leaders, including Faisal Husseini and Hanan Ashrawi, to discuss their perspectives on the peace talks with Israel. They expressed optimism about the pace of the negotiations. However, they also expressed their deep concerns about the situation in Jerusalem and the rights of Arabs and Palestinians in the city. They suggested that Jerusalem become the capitol of two states, with the provision that Jerusalem would be under the exclusive sovereignty of NO state.

We also discussed the problem of terrorism. Mr. Husseini stated that the best way to stop terrorism is to stop factors which lead to terrorism—by allowing people greater control over their lands. He also stated his belief that the Israelis cannot keep 400,000 Palestinians hostage in Hebron to resolution of the peace process, and that there must be prompt resolution of the situation in Hebron.

Later on the afternoon of August 30th, we met with former Prime Minister Yitzhak Shamir. We discussed the status of the current peace talks with the PLO and his concerns over terrorism and internal security. He noted pointedly that the difference between the peace talks between Israel and Egypt and the talks with the Palestinians is that the peace talks with the Egyptians were with an external entity, whereas the negotiations with the Palestinians are internal, insofar as they involve people currently living in Israel.

On Wednesday evening we met with Israeli Prime Minister Yitzhak Rabin. In our meeting with Mr. Rabin, he declared his dedication to utilizing this unique moment in history, which began with the dismantlement of the former Soviet Union, to bring about peace in the Middle East. He noted in particular the advantage to removal of the Soviet umbrella over the heads of Arab leaders.

In response to my question on the peace talks between Israel and the Palestinians, Prime Minister Rabin expressed optimism about the prospects for peace. He noted that he wishes to see Israel as a Jewish state, without bilateral governance. However, Mr. Rabin clarified that he does not see Israel as a Jewish state if racism will be the governing policy. Instead, he prefers peace within Israel with rights for Palestinians. As part of this peace, Prime Minister Rabin talked of new priorities, under which Israel will no longer expend resources on settlement of the West Bank, where only 3% of Israeli Jews live.

I asked him if there is any way to control terrorism. He commented first about the recent bus bombing, noting that although the bombing was carried out by Hamas, it was done in an area under Israeli control. The elements supporting this terrorism, he continued, are seeking to bring down the Israeli Labor government because the peace process will certainly come to an end under a Likud government. According to Prime Minister Rabin, many of these same forces of extremism are seeking to assassinate PLO Chairman Yassir Arafat because of his overtures to Israel. The acts of terrorism are difficult to control—over 70% of these terrorist acts since 1994 have been carried out by suicide missions which are virtually impossible to prevent.

Regarding peace discussions with Syria, Mr. Rabin stated that Israel stands ready to negotiate, but that the Syrians want the U.S. to remain involved as a third party mediator to these talks. He expressed his concern over the breakdown of talks over the issue of Early Warning systems.

The next morning, August 31st, we had breakfast with Israeli opposition party leader Benjamin Netanyahu. In response to my question about whether the PLO is complying with the conditions for U.S. aid, he stated that Arafat is not doing all that he can to stamp out terrorism. In particular, Mr. Netanyahu pointed to speeches by Arafat in which he has said that Palestinians should be patient but that the ultimate way is the way of a ''Jihad''. He further noted that Arafat has taken minor steps to crack down on terrorists, but that he has refused to extradite known terrorists in his own police force.

When asked if reports were true that he was willing to meet with Arafat, Mr. Netanyahu said that these reports were not true. He said he would furnish us with a list of known terrorists that are wanted for murder, whom Arafat has refused to extradite to Israel, so that I could bring up these names with Arafat personally. In particular, he highlighted the Abu-Sita cousins, who are suspects in the murder of Uri Megidish. According to Mr. Netanyahu, these individuals are currently serving in the Palestinian intelligence service and the Palestinians have refused repeated requests to turn them over to Israeli authorities for trial.

After meeting with Mr. Netanyahu, we spoke with Israeli President Ezer Weitzman about the importance of peace with the Palestinians and the Syrians. Mr. Weitzman agreed that, in general, a peace agreement between Israel Syria would be good for both nations.

We asked President Weitzman whether the U.S. should continue giving aid to the PLO if Arafat is not complying with the conditions attached to that aid. He responded that the U.S. should stick to the requirements set forth in the law and force Arafat to comply with the conditions attached to that aid. Mr. Weitzman also commented that he would not go to the U.S. to sign an interim agreement between Israel and the PLO because in its current form this agreement is not the final agreement.

After meeting with President Weitzman, we drove to Gaza for a meeting with PLO Chairman Yassir Arafat. Chairman Arafat emphasized again and again the importance of a resolution of the situations in Hebron and Jerusalem as critical factors in ensuring peace and the success of the peace talks with Israel.

We asked Arafat if it is possible for the PLO to exert more pressure on Hamas to renounce acts of terror. He responded that pressure must be brought to bear on Iran and Syria. He noted, however, that the PLO has stopped 11 attempted acts of terror, with the latest coming just 2 days prior to our meeting. He also noted that as a result of his peace efforts, he has received death threats by Hamas groups operating out of Syria.

In response to allegations that he only condemns terrorism when speaking in English, but not Arabic, Arafat denied the charge, noting that since his English is not good, he typically speaks in Arabic, and that he had condemned terrorism in Arabic on numerous occasions, including at the University. Arafat explained that his speeches in Arabic are being misunderstood, and that when he calls for a ''Jihad'' he is actually using a term used by the prophet Mohammed when he called the building of a state the ''grand Jihad''.

When we pressed Arafat on why he is refusing to extradite known terrorists, including the Abu-Sita cousins, he deferred to his Security Minister, who responded that the Palestinians cannot turn over any suspects until there is evidence they committed an extraditable crime and then, only after receiving a court order authorizing the extradition.

EGYPT

That evening we flew to Cairo, where we met with Egyptian President Hosni Mubarak. We asked President Mubarak if he believes Arafat is doing all that he can do to combat terrorism, pursuant to the conditions established on receiving U.S. aid. He responded that Arafat is working practically and on the ground level to stop terrorism, and that forces such as Iran are the ones supporting Hamas and Jezbollah.

We also discussed our concerns about Saddam Hussein and the situation in Iraq. President Mubarak related that he has worked hard to try to influence Saddam to relinquish power and leave Iraq, including his offer to grant Saddam asylum in Egypt if Saddam promises to leave Iraq peacefully, but his efforts have not been successful.

BULGARIA

On September 1st, we departed Egypt en route to Sofia, Bulgaria, where we had meetings with the President of the National Assembly, Blagovest Sendov, and the President of Bulgaria, Zhelyu Zhelev. Both Mr. Sendov and Mr. Zhelev expressed an interest in NATO membership if the Parliament supports such membership, with Mr. Zhelev stating his firm desire that such membership should occur.

We also discussed at length the current situation in the former Yugoslavia, and its implications on Bulgaria. Finally, both Mr. Sendov and Mr. Zhelev discussed the importance of foreign investment in Bulgaria and U.S. support for Bulgaria's membership in the World Trade Organization and GATT.

BELGIUM

From Bulgaria, we travelled to Brussels, Belgium, where we were briefed by the U.S. representatives to NATO on the situation in Bosnia, including the recent bombing raids on Serbian positions. They advised us of the negotiations and cooperation between our NATO allies and the UN command in orchestrating the military operations after the Serbian mortar attack on Sarajevo. Significantly, they noted that these air strikes were focused on the Serb heavy weapon positions and on all lines of support for those weapons, including communication and control centers.

We also discussed the negotiation strategy for NATO, including the status of talks with Serbian strongman General Ratko Mladic. They expressed hope that these talks will be productive, although they noted that Mladic does not appear terribly cooperative. They also noted NATO's intention to proceed with the air strikes if Mladic and the Serbs do not remove their heavy weapons from around Sarajevo.

We returned to the United States on September 2, 1995.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, August 28, 1995.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I think it important to call to your personal attention the substance of meetings which Senator Hank Brown and I have had in the last two days with Indian Prime Minister Rao and Pakistan Prime Minister Benazir Bhutto.

Prime Minister Rao stated that he would be very interested in negotiations which would lead to the elimination of any nuclear weapons on his subcontinent within ten or fifteen years including renouncing first use of such weapons. His interest in such negotiations with Pakistan would cover bilateral talks or a regional conference which would include the United States, China and Russia in addition to India and Pakistan.

When we mentioned this conversation to Prime Minister Bhutto this morning, she expressed great interest in such negotiations. When we told her of our conversation with Prime Minister Rao, she asked if we could get him to put that in writing.

When we asked Prime Minister Bhutto when she had last talked to Prime Minister Rao, she said that she had no conversations with him during her tenure as Prime Minister. Prime Minister Bhutto did say that she had initiated a contact through an intermediary but that was terminated when a new controversy arose between Pakistan and India.

From our conversations with Prime Minister Rao and Prime Minister Bhutto, it is my sense that both would be very respective to discussions initiated and brokered by the United States as to nuclear weapons and also delivery missile system.

I am dictating this letter to you by telephone from Damascus as that you will have it at the earliest moment. I am also telefaxing a copy of this letter to Secretary of State Warren Chistopher.

Sincerely,

ARLEN SPECTER,
Chairman.

DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

MOTION TO PROCEED

Mr. SPECTER. Mr. President, on behalf of the distinguished majority leader and pursuant to the consent agreement, I move to proceed to the Labor-HHS appropriations bill, H.R. 2127.

Under the unanimous-consent agreement, at 10 a.m. there will be a 15-minute vote on a motion to proceed. If there are not 60 votes in the affirmative on the motion to proceed, there will then be a second vote at 11 a.m. on a motion to proceed. If there are not 60 votes on the second vote, the Senate will be recessed until later in the day to allow the Finance Committee to meet.

Remaining appropriations would be the State, Justice, Commerce appropriations bill and the continuing resolution.

Therefore, according to the instruction of the distinguished majority leader, a late night session is expected with rollcall votes throughout the day.

Now I do move to proceed, on behalf of the majority leader, to the Labor-HHS appropriations bill.

Mr. President, I spoke at some length yesterday afternoon on the import of this bill. It is my hope we would proceed to debate this bill. It is a very important piece of legislation, containing in excess of $62 billion in discretionary appropriations for the Departments of Labor, Health and Human Services, and Education. It contains an additional $200.9 billion in nondiscretionary expenditures. It is within the 602(b) allocations given to the committee according to the Congressional Budget Office.

I, frankly, would have liked to have seen more funds allocated to our subcommittee so we could have had more for very vital services under this bill. As it was, the allocation to the Senate subcommittee was almost $1.6 billion above the House of Representatives, and those additional funds were placed significantly in the education account.

With the cooperation of Senator HARKIN, with whom I have worked for many years—last year Senator HARKIN was chairman, I was ranking; this year our roles are reversed—we made the best allocation we could, assisted by very able and competent staff, allocating funds in a very, very complex bill.

We have maintained funding for Goals 2000, which is in response to a 1983 report about the shambles in education, where sufficient actions have still not been taken. These goals are voluntary on the States. The States can accept the Federal standards and goals or can adopt standards and goals on their own as they choose.

We have made provision for LIHEAP, low-income fuel assistance, which goes principally to the elderly who are without sufficient funds to buy their fuel. It is really a proposition, as the expression goes, of heating or eating that plagues those individuals.

We have made allocation for funding for violence against women. With the House figure being at $32 million on the shelter issue—the full authorization was $50 million—in our subcommittee allocations, we have found the funding for the full $50 million.

We have presented a bill which has taken care of key issues of plant safety. We have stripped the bill of provisions relating to legislation because of our conclusion that legislation ought not to be included on an appropriations bill, a policy adopted by the full committee as a general matter on all appropriation bills under the leadership of our distinguished chairman, Senator HATFIELD.

On biomedical research, Mr. President, we have for the National Institutes of Health nearly $11.6 billion, an increase of some $300 million over the fiscal year 1995 appropriations. These funds will boost the biomedical research appropriations to maintain and strengthen the tremendous strides which have been made in unlocking medical mysteries which lead to new treatments and cures. Gene therapy offers great promise for the future. In the 15 years that I have been in the Senate, all those years on the appropriations subcommittee dealing with health and human services, where cuts have been proposed by Presidents, both Democrat and Republican, we have increased funding for medical research, which I think it is very important.

Two years ago, I had a medical problem and was the beneficiary of the MRI developed in 1985, after I had come to the Senate, a life-saving procedure to detect an intracranial lesion. So I have professional, political, and personal experiences to attest to the importance of health research funding.

On Alzheimer's disease, Mr. President, this last year the United States spent over $90 billion to care for Alzheimer's patients. This devastating disease robs its victims of their minds while depriving families of the well-being and security they deserve.

We have been working to focus more attention and more money into the causes and cures of Alzheimer's. To address this problem, the bill contains increased funding for research into finding the cause and cures for Alzheimer's disease. The bill also includes nearly $5 million for a State grant program to

help families caring for Alzheimer's patients at home. The statistics are enormously impressive, Mr. President, that if we could delay the onset of Alzheimer's disease, we could save billions of dollars.

On women's health, in 1995, 182,000 women will be diagnosed as having breast cancer and some 46,000 women will die from the disease. The investment in education and treatment advances led to the announcement last year that the breast cancer death rates in American women declined by 4.7 percent between 1989 and 1992, the largest such short-term decline since 1950.

And while this was encouraging news, it only highlighted the fact that the Federal Government investment is beginning to pay off. While it was difficult in a tight budget year to raise fundings levels, the subcommittee placed a very high priority on women's health issues. The bill before the Senate contains an increase of $25 million for breast and cervical cancer screening, increases to expand research on the breast cancer gene, to permit the development of a diagnostic test to identify women who are at risk, and speed research to develop effective methods of prevention, early detection, and treatment.

Funding for the Office of Women's Health has also been doubled to continue the national action plan on breast cancer, and to develop and establish a clearinghouse to provide health care professionals with a broad range of women's health-related information. This increase has been recommended for the Office of Women's Health, because of the very effective work that that office has been doing.

On Healthy Start, Mr. President, children born of low birthweight is the leading cause of infant mortality. Infants who have been exposed to drugs, alcohol, or tobacco in utero are more likely to be born prematurely and of low birthweight. We have in our society, Mr. President, thousands of children born each year no bigger than the size of my hand, weighing a pound, some even as little as 12 ounces. They are human tragedies at birth carrying scars for a lifetime. They are enormously expensive, costing more than $200,000 until they are released from the hospital.

Years ago, Dr. Koop outlined the way to deal with this issue by prenatal visits. The Healthy Start Program was initiated, and has been carried forward, to target resources for prenatal care to high incidence communities; it is funded as well as we could under this bill with increases as I have noted.

On AIDS, the bill contains $2.6 billion for research, education, prevention, and services to embattle the scourge of AIDS, including $379 million for emergency aid to the 42 cities hardest hit by this disease.

When it comes to the subject of violence against women, it is one of the epidemic problems in our society. The Department of Justice reports that each year women are the victims of more than 4.5 million violent crimes, including an estimated 500,000 rapes or other sexual assaults.

But crime statistics do not tell the whole story. I have visited many shelters, Mr. President, in Harrisburg and Pittsburgh and have seen first hand the physical and emotional suffering so many women are enduring. In a sad, ironic way the women I saw were the lucky ones because they survived violent attacks.

The Labor-HHS-Education bill contains $96 million for programs authorized by the Violent Crime Reduction Act. The bill before the Senate contains the full amount authorized for these programs, including $50 million for battered-women shelters, $35 million for rape prevention programs, $7 million for runaway youth, and $4.9 million for community demonstration programs, the operation of the hotline and education programs for youth. These funds have been appropriated, Mr. President, after very, very careful analysis as to where the subcommittee and the full committee felt the money could best be spent.

On the School-to-Work Program, the committee recommends $245 million within the Departments of Labor and Education, which is maintenance of the level provided in 1995. We would like to have had more money, but that was the best we could do considering the other cuts.

On nutrition programs for the elderly, for the congregate and Home-Delivered Meals Program, the bill provides almost $475 million. Within this amount is $110.3 million for the Home-Delivered Meals Program, an increase of $16.2 million over the 1995 appropriation because there are such long waiting lists, so many seniors who really depend upon this for basic subsistence.

On education, we have allocated the full amount of the increase that our subcommittee received, some $1.6 billion. The bill does not contain all of the funds we would like to have provided, but it is a maximum effort on this important subject.

As to job training, Mr. President, we know all too well that high unemployment means a waste of valuable human resources, inevitably depresses consumer spending, and weakens our economy. The bill before us today includes $3.4 billion for job training programs. And again, candidly, I would like to see more, Mr. President, but this is the maximum that we could allocate.

As to workplace safety, the bill contains an increase of $62 million over the amount recommended by the House for worker protection programs. While progress has been made in this area, there are still far too many work-related injuries and illnesses, and these funds will provide programs and inspect businesses and industry, weed out occupational hazards, and protect worker pensions within reasonable bounds.

LIHEAP is a program which is very important, Mr. President, to much of America. It provides low-income heating and fuel assistance; 80 percent of those who receive LIHEAP assistance earn less than $7,000 a year. It is a program which was zeroed out by the House, and we have reinstated it in this bill. We have effectively included a total of $1 billion here, $100 million of which is carryover funds, as we understand the current state of affairs, although it is hard to get an exact figure, and an additional $900 million.

As the Congress consolidates and streamlines programs, Federal administrative costs must also be downsized. In this bill, with the exception of the Social Security Administration, we have cut program management an average of 8 percent. Many view administrative costs as waste and others suggest that deeper cuts are justified. It is our judgment that any further reductions would be counterproductive.

In closing, Mr. President, I want to thank the extraordinary staffs who have worked on this program. On the Senate side, Bettilou Taylor and CRAIG Higgins have been extraordinary and professional in taking inordinately complicated printouts and working through a careful analysis of the priorities.

We received requests from many of our colleagues. And to the maximum extent, we have accommodated those requests. We have received many requests from people around the country. We have accommodated as many requests for personal meetings as we could, both with the Senators and with their staffs. And we think this is a very significant bill.

There are people on both sides who have objected to provisions of the bill. When a motion to proceed is offered, it is my hope that we will proceed to take up this bill and that we will pass it. We are aware that there has been the threat of a veto from the executive branch, and I invite the President or any of his officials to suggest improvements if they feel they can do it better.

There is a commitment in America to a balanced budget and, that is something we have to do. We have structured our program to have that balanced budget within 7 years by the year 2002. The President talks about a balanced budget within 9 years. I suggest that our targeting is the preferable target.

To the extent people have suggestions on better allocations, we are prepared to listen, but this is our best judgment. We urge the Senate to proceed with this bill.

At this time I yield to my distinguished colleague, Senator HARKIN.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I inquire of the Presiding Officer, how much time does this side have?

The PRESIDING OFFICER. There are 27 minutes 46 seconds remaining on

your side and there are 18 minutes remaining on the side of the Senator from Pennsylvania.

Mr. HARKIN. Mr. President, I again thank my colleague, Senator SPECTER, for his kind and generous remarks on my behalf. I want to repay them in kind. Senator SPECTER is right, we have worked together for many years. We have switched places, majority/minority, but that has not in any way lessened or in any way changed our relationship. It is one of, I think, mutual respect and one in which we have worked together to try to fashion the best bill we possibly could, having been dealt a bad hand. So I commend Senator SPECTER and his staff for doing the best possible job with the bad hand of cards that was dealt to us.

I especially want to draw attention to Senator SPECTER's efforts to restore funding for rural health care and the health and safety protections for workers, and especially his dogged determination to ensure that we have funding for the Low-Income Home Energy Assistance Program.

I also credit my colleague, Senator SPECTER, for stripping the bill of its many unnecessary and inappropriate legislative riders, matters that ought rightfully to be taken up by the authorizing committees and not by the Appropriations Committee.

Unfortunately, the committee did agree to include in this bill an amendment on striker replacement, which has resulted in the situation we find ourselves in today. I reluctantly agreed to this procedure suggested by Senator DOLE because I am strongly opposed to the striker amendment and because, on the floor, the bill would have attracted scores of additional extremist legislative riders.

So, for the benefit of Senators, what we face right now is a vote on the motion to proceed that will take place at 10 o'clock. That vote, really, is a vote on whether or not we will have within this appropriations bill a rider that says that President Clinton cannot execute his Executive order which bans corporations—and I will get into the details of it later—bans companies having business with the Federal Government, contracts with the Federal Government, from replacing legitimate strikers with permanent replacements.

We had a vote on this earlier this year and the vote failed, the cloture vote failed on that vote. So this is the same issue we have before us, whether or not the President can implement his Executive order on striker replacement or whether we will have this rider on the appropriations bill prohibiting that implementation. So, that is what is facing us right now, and that vote will take place at 10 o'clock.

Before I yield on the issue of striker replacement to my colleague from Minnesota and my colleague from Massachusetts, let me just say a couple of words about the bill in front of us. As I said, Senator SPECTER did a commendable job with the bad hand we were dealt, but I think this chart really points out the problems that we have in dealing with education, with health, with workers protection, with summer youth employment, with low-income home energy heating assistance—all of the things that are in this bill that help advance our country educationally, socially, and try to make life a little bit better and give more opportunity to more people.

What we say is, over 1992, 1993, 1994, 1995, our allocations and budget authority increased by a little over 10 percent—about 15 percent—over those years. This year, our allocation has dropped back to where we were in 1992 in the House, 1993 in the Senate. So, because of this, we have a bill which cuts adult training programs by $167 million; reneges on our commitment to dislocated workers programs; it eliminates the summer youth employment program; it cuts by 13 percent our efforts to combat waste, fraud and abuse in Medicare; it undermines our battle and fight in the war against drugs by cutting money for safe and drug-free schools. his bill cuts 48,000 children from the Head Start Program. It cuts the Goals 2000 Program well below the level proposed by the President. These are just some of the items that we had to cut and reduce because of the allocation that we had—all in the face of giving the Pentagon, I might add, $7 billion more than they even asked for.

The Pentagon gets $7 billion more than they even asked for, yet in programs that are necessary for the health, safety, security, and education of the people of this country, we have cut those $8 billion. That is what we are confronted with.

Having said that, Mr. President, I now want to turn to the issue of striker replacement, the issue that is really before us on the vote at 10 o'clock. I know the Senator from Minnesota wanted to speak on this, but let me just set the stage for this.

The President issued an Executive order regarding the permanent replacement of striking workers for companies that do business with the Federal Government. The President's action is fully lawful and within his authority and conforms with the practice of previous Presidents, including President Bush, who used this authority twice during his 4 years, and this Congress did not try to strip him of that power. And yet now this Congress wants to strip this President of his lawful right to issue this Executive order.

I would yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair. I thank the Senator from Iowa. I would also like to thank my colleague from Massachusetts for his graciousness in letting me speak right now. He was first on the floor, and I appreciate him letting me have this opportunity.

Mr. President, let me follow up on the words of the Senator from Iowa. Actually, not just President Bush has used such an Executive order but Roosevelt did, Truman did, Johnson did, Nixon did, and Bush has. It is unfortunate that this amendment is in this bill, and I rise to object to the amendment and I rise to object to our proceeding on this bill. We have had this debate before. We had a vote on this before, and I fully expect again today that we will have the vote against this amendment.

Mr. President, what the Executive order says is the Federal Government will no longer purchase goods and services from firms which permanently replace their workers in response to a lawful strike.

That is in the national and public interest because that has a lot to do with what kind of contractors produce what kind of quality work for this Nation.

In addition, it is a basic standard of fairness. It has to do with on which side is the Federal Government. I cannot understand for the life of me why the opposition to this protection for working people in this country. The pattern is clear. It is a pattern in Iowa, in Minnesota, in Massachusetts, in all across the country, and it is a pattern of some companies. Thank goodness, a lot of companies are precisely the opposite in their modus operandi. A lot of companies understand that you want to have cooperation between employees and employers, that that is the way to have high morale; it is the way to have high levels of productivity. But in all too many cases, some of the bad apples force impossible concessions onto their work force, which means that people have wages on which they cannot support their families or they have to work under conditions that threaten their very health, their life, and their limb, and therefore what happens is the employees have no other choice but to go out on strike, which is precisely what the companies want them to do because when they go out on strike they permanently replace them.

The right to strike, which is part of the leverage of working people in this country, which is part of their right to bargain collectively, has become the right to be fired. And so the President of the United States of America has said the Federal Government is going to be on the side of working people. We are not going to do business with businesses that force people out on strike and then permanently replace them. That is on the part of the President of the United States a positive and powerful message.

The reason I feel so strongly and am absolutely opposed to our proceeding on this bill and hope this amendment will be removed has to do with the context of the times that we are living in, and the context is simple. The bottom 75 percent of the population feels the economic squeeze—low wages, wages that are not living wages, working people losing their bargaining power, more and more mergers, banks buying

banks, pharmaceutical companies buying pharmaceutical companies, more concentration of power in the telecommunications industry, conglomerates dominating the economy.

Where do regular people fit into this equation? Cutbacks in occupational health and safety protection, cuts in Medicare and Medicaid and health care, cuts in protection for children. It seems to me that somewhere in the equation working families, the majority of people of this country who do not own all the wealth and all the capital and who are not the big players and do not make all the big contributions ought to have some representation in the Senate.

I believe the President of the United States has through this Executive order sent a positive and important message that he stands with working families. I think we in the Senate who are opposed to this amendment to defund this Executive order are sending the same message, and I urge my colleagues to vote against this amendment and to vote against the motion to proceed.

I thank both Senators for yielding me time.

Mr. HARKIN. I thank the Senator from Minnesota.

Mr. President, I yield 15 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Massachusetts.

Mr. KENNEDY. I thank my friend and colleague from Iowa for yielding the time, and I would yield myself 13 minutes.

On March 8, 1995, President Clinton took a dramatic and long overdue step to put the federal government on the side of fair and efficient labor relations. He issued an Executive order which makes it the policy of the executive branch to prohibit Federal contracts with employers who permanently replace workers who exercise their lawful right to strike.

It was the right thing to do, not just because it will promote better labor relations among Federal contractors, but because it tells America's workers that the Government will not let itself be used to help grind down their wages, break their unions, or punish them for asserting their legal rights.

Today, for the second time this session, we are debating a Republican attempt to block implementation of President Clinton's Executive order through a rider on an appropriations bill. Last March, we were successful in preventing that effort. The attempt to block implementation of the Executive order has no place on this or any other appropriations bill, and I hope the Senate will vote today to block this bill as long as this rider is included.

If anything, the case for the Executive order is even stronger now than it was in March. When we debated this issue 6 months ago on the defense appropriations bill, we heard over and over again that we needed to act because the President was usurping his authority, acting contrary to law, even violating the constitutional separation of powers.

But since that time, those arguments have been heard in court and resoundingly rejected. On July 31, Judge Gladys Kessler of the Federal district court for the District of Columbia upheld the Executive order against a challenge by the Chamber of Commerce and various other business groups.

In her decision, Judge Kessler ruled that President Clinton acted within his authority over Federal procurement, that there is a close nexus between the Executive order and efficient procurement; and that the Executive order does not conflict with the National Labor Relations Act. In other words, the court rejected all of the major arguments that have been made against the Executive order.

The President has not abused or exceeded his legal authority. He has the power, given him by Congress in the procurement laws, to deny Federal contracts to employers who use permanent replacements for striking workers. And as the Federal court specifically found, the President's action does not change or conflict with the National Labor Relations Act.

There is no merit to the argument that he has done an end run around the Congress by trying to accomplish what the striker replacement bill had failed to do. The Executive order is much more limited than the striker replacement bill. The Order does not make the use of permanent replacements illegal. It deals only with how the Government chooses its suppliers of goods and services. And that, the court has ruled, is a matter within the President's authority over the Government procurement process.

Judge Kessler found clear precedent for the striker replacement Executive order in President Nixon's 1970 Executive order requiring bidders on federally assisted construction projects to submit an affirmative action plan, President Carter's Executive order requiring companies seeking Federal contracts to be bound by wage and price controls which were voluntary for everyone else, and President Bush's Executive order requiring Federal contractors to post notices advising employees of their right not to join a union.

Perhaps the most direct analog, she said, was the Executive order issued by President Bush in 1992, which required that contractors, as a condition of securing contracts with the Federal Government, refrain from entering into perhire agreements with labor unions—even though the Supreme Court has held that such agreements are legal and permissible under the National Labor Relations Act.

So let us hear no more that this is an unprecedented action by President Clinton and that somehow it exceeds his Executive authority. There is ample precedent and ample authority for the President to take this action. This is no different than the authority exercised by other Presidents before him, Republicans and Democrats alike.

The requirements imposed on Federal contractors by President Bush—banning perhire labor agreements and requiring employees to be told they didn't have to join a union—were never enacted by Congress. But when those orders were issued, were there any protests from my Republican colleagues? The answer is no. In fact, many of my colleagues took to the floor to applaud those actions. It is clear that the objections that are now being raised to President Clinton's action are not based on principle, or a consistent view of the President's authority with respect to labor relations or Federal procurement. They are part of a persistent and unconscionable Republican attack on basic protections for working men and women.

We see it in the relentless efforts by Republicans to repeal the Davis-Bacon Act, which helps to assure decent wages for hard-working construction workers who make, on average, $27,000 a year. We see it in the Republican proposal now making its way through the Congress to roll back the earned income tax credit, and raise taxes for 39 million low-income working Americans to pay for tax breaks for the wealthy. We see it in the attempt to open gaping holes in the pension laws to allow companies to raid billions of dollars from workers' pension funds. We see it in the refusal of the Republican leadership to even allow a vote on increasing the minimum wage, which in real terms is lower now than it has been at any time in the past 40 years.

Seven times since the enactment of the first Federal minimum wage law in 1938, bipartisan majorities of the Congress have reaffirmed the Nation's commitment to working families by voting in favor of increasing the minimum wage. Increases have been proposed and supported by Republican as well as Democratic Presidents. Six years ago, 89 Senators—including all but 8 of the Republican Senators—voted for a minimum wage increase of 90 cents, an increase identical to that which has been proposed by President Clinton. Yet now we are not allowed to even vote on the issue. Republicans are for a minimum wage all right—the minimum wage possible.

Republicans are for the right to strike, as well—as long as striking workers can be permanently replaced—which means no real right to strike at all.

We are prepared to move forward to consideration of important spending issues in this bill, and we should do that. But we are not prepared to acquiesce in letting this bill be used as a vehicle for yet another attack on working families. And let us be clear—that is what this vote is all about.

The basic principle behind the President's action has strong public support.

In a recent poll, 64 percent of respondents said that once a majority of workers have voted to strike, companies should not be allowed to hire permanent replacements to take their jobs.

This is a question of simple justice for workers. If it is unlawful for an employer to fire a worker for exercising the right to strike, it should be equally unlawful for an employer to deprive a striking worker of his job by permanently replacing him.

Today, more than ever, employees need the right to organize to improve their wages and working conditions, and to bargain with their employers over those issues. There is no inconsistency between fair profits for management and fair treatment for workers.

But the right to organize and bargain collectively is only a hollow promise if management is allowed to use the tactic of permanently replacing workers who go on strike.

No one likes strikes—least of all the strikers, who lose their wages during any strike and risk the loss of health coverage and other benefits. Both workers and employers have a mutual interest in avoiding economic losses. The overwhelming majority of collective bargaining disputes are settled without a strike. But the right to strike is a cornerstone of our labor laws. It helps to ensure that a fair economic bargain is reached between management and labor.

The opponents of this Executive order plead that if employers do not have the right to permanently replace workers who go on strike, their only alternative is to go out of business. But hundreds of strikes occur and are settled every year without workers being permanently replaced, and without businesses being permanently damaged. These strikes are settled through precisely the process that our labor laws are designed to encourage—serious, meaningful give-and-take between the parties, to negotiate a solution that both sides can accept. That is the kind of outcome that President Clinton is encouraging through this Executive order.

The recent experience of workers on strike against the Tiffany Office Furniture Co. in Conway, AR—a company with major contracts with the Federal Government—is a good illustration of the positive benefits of the Executive order. Members of the Southern Council of Industrial Workers struck the company on June 6 after rejecting a contract that among other things, would have cut certain health benefits. Negotiations were going nowhere, and the company appeared headed toward hiring permanent replacements when an officer of the union learned about the President's Executive order.

On July 7, the union officer sent a letter to the company on explaining the Executive order. He told the local newspaper, ''from that point forward there was concentrated settlement discussion.'' Within 2 weeks the parties had reached agreement on a contract that preserved health benefits with a reasonable cost-sharing arrangement for coverage of family members and for the first time gave workers a retirement program.

Instead of the pain, economic hardship and emotional suffering for workers, their families and their communities that inevitably occurs when strikers are permanently replaced, union officials report that what has been gained is a mutual respect between the workers and the company and a resumption of normal relations with a firm foundation for the future.

That is a perfect illustration of why it is both important and appropriate for the President to use his executive authority to ban the use of permanent replacements by federal contractors. Hiring permanent replacements encourages intransigence by management in negotiations with labor. It encourages employers to replace current workers with less experienced workers willing to settle for less—and to accept smaller paychecks and other benefits. Clearly that practice has a negative impact on the efficiency and quality of performance on Federal contracts.

The Executive order helps restore the balance that has been lost in recent years.

It is particularly distressing for us to be spending this time debating an ill-conceived extraneous rider on labor law, instead of addressing the important challenges on issues that belong in this appropriations measure. I want to address two of these issues here—the unacceptable cuts in education, and the cuts in job training proposed by our Republican colleagues in this bill.

These are difficult days for children, students, and working families. On Tuesday of this week, Republicans slashed college student loans by $10 billion over 7 years. Now they propose to cut federal education spending by an additional $2.4 billion next year and $40 billion by the year 2002—all to help pay for a $245 billion tax break for the wealthy.

This is no time to be cutting education. Our schools are filling with more students than ever before. Total public school enrollment is projected to rise from 45 million in 1995 to 50 million by 2005—an increase of 10 percent. In the face of this surge in enrollment, it makes no sense to slash funding for education. Increased funding is necessary just to maintain the same level of services, let alone provide the wise investment we need to improve education and build a stronger future for the Nation.

We should not turn our backs on education just as the nation is beginning to reap the benefits of a better educated work force. More students are finishing high school, more students are entering college, and more students are graduating from college than ever before. The Bureau of Labor Statistics estimates that about 20 percent of income growth during the last 20 years can be attributed to students going further in school. We can build on this record by investing more in education, not less.

Slashing education in today's economy is like cutting defense in the middle of the cold war. To be successful in the years ahead, young men and women need communication skills and problem-solving skills. They need a grasp of basic scientific and math concepts. They need a familiarity with computers, and the ability to work as part of a team.

As technology changes and economic competition brings the world closer together, the demand for better-educated workers is growing, and the demand for workers with lower skills is declining. In the last decade, jobs for those with low levels of education grew by only 7 percent, while employment in high-skill occupations increased by an impressive 32 percent. These unwise cuts will affect real students in real schools in real communities throughout the country.

As States across the Nation recognize the urgency of school reform, it makes no sense to reduce Federal funds designed to encourage such reforms. Yet 1,600 of the 9,000 schools participating in the Goals 2000 program will lose funds under this Republican amendment.

Drug use by students is on the rise and too many students are victims of crime in their schools. Yet Republicans are cutting funds that support 97 percent of communities and make it possible for 39 million students to learn in safe and drug-free schools.

Preschool enrollment has doubled, giving children a better chance to enter school ready to learn. Yet Republicans are cutting $132 million from Head Start.

The achievement gap between students in poor and wealthy schools is narrowing. Yet Republican cuts will deny assistance to 650,000 disadvantaged students.

High school graduates are obtaining better job training, finding better jobs, and earning more in those jobs. Yet Republicans are cutting $83 million from vocational education and $867 million from summer jobs to help youths and adults gain job skills and pursue more productive careers in a changing economy.

The issue is priorities. It makes no sense to reduce education investments needed to improve the lives of students and working families. It makes even less sense to do so in order to pay for tax breaks for the wealthiest individuals and corporations in our society.

As was pointed out earlier in the course of this debate, over the period of the last months there has been a series of attacks on the rights of working men and women in this country. First, there was the attempt to cancel out the Davis-Bacon Act. That attempt would effectively guarantee for construction workers, who work 1,700 hours in the course of a year, that their

average income of $27,000 will diminish, and attacks their livelihood.

There has been a resistance by our Republican colleagues and friends to raise the minimum wage so that men and women who work 40 hours a week, 52 weeks a year, are able to provide bread on their table, a roof over their house, the mortgage payments, and clothes for their children, to make work honorable, respectable, and to make work pay.

They not only resist increasing the minimum wage, they want to turn back on the earned income tax credit. Who is eligible for that? Those working families that are prepared to work, are working, and they make less than $26,000 a year.

Attack on the Davis-Bacon Act; attack on the minimum wage; attack on the EITC; and an attack on educating the children of those working families, as we saw in the Labor Committee this past week, by putting an additional tax on the scholarship assistance that the sons and daughters of working families receive. The more they need in terms of student assistance, the higher the tax is on them and on their schools. That is fundamentally wrong.

We are also seeing an attack on the parents of those working families in the Finance Committee by decreasing the coverage of their parents under the Medicare system. That will mean more copayments, more premium increases, and an increase in the deductibles. That is what is happening for working men and women in this country at the hands of this Republican Congress.

President Clinton has stood up for them with this particular provision, and now we have the attempt to try to deny these individuals who are trying to provide work for their families their right to be able to be included in the job market.

Finally, Mr. President, I think we ought to recognize what has happened to the Nation's commitment to education in the underlying bill. The job done by Senator HARKIN and Senator SPECTER has been superb in trying to take scarce resources and focus them on the areas of greatest need in terms of our national investment.

But there is still a serious cutback on the basic Head Start Program, which tries to enhance the opportunities for young children to develop the kinds of competence and skills to project them into the early years of education;

Cutbacks on the chapter 1 program that targets needy children for special help and assistance that was reshaped last year with strong bipartisan support;

The denial of the 90 percent of the Federal funds that would be available to the States at the local community level to help enhance the academic achievements at the elementary and secondary education level with Goals 2000;

The reduction in the School-to-Work Program to take three-quarters of the kids that do not go on to college, and to give them some additional opportunity to get into gainful employment.

All of these programs have been reduced.

The absolute abandonment of the commitment for the Summer Jobs Program—this is in the wake of the debate on the Welfare Reform Program, where we are talking about trying to get people off welfare and into employment. Under President Bush, we had 872,000 summer jobs. They have been zeroed out under the Republican program, zeroed out.

How can we, on one day, talk about getting people off welfare, building a work ethic, and trying to get them involved in jobs, and on the next day effectively wipe that program out? In the wake of what this Congress did in the welfare debate and the kind of commitment we had to summer jobs under President Bush, how can we zero out this program now? It makes no sense whatsoever. That is what has been done in the appropriations recommendation.

So, Mr. President, the issue that is before us is fundamental and basic to working families, to their education, to their own income, and to the future, I believe, of this country.

It is difficult to exaggerate the short-sighted Republican priority that would short-change education. Education has been the essence of the American dream and the core of the American experience from the beginning of the Nation.

Mr. President, there is one wonderful quote that I came across and, as a matter of fact, reread yesterday, by the former Senator from Massachusetts, Daniel Webster, when he made this extraordinary speech in Faneuil Hall to give testimony upon the deaths of John Adams and Thomas Jefferson. He made this point—I came across it again yesterday, and it was appropriate at a time that our Human Resources Committee was denying and making it more difficult for the children of working Americans to obtain a higher education. But it is also applicable as we consider the appropriations bill now that is before us.

Over a century and a half ago, Daniel Webster made the point about the importance of education in his famous oration on the lives and service of John Adams and Thomas Jefferson. Both of those two great Presidents died on the same day, on July 4, 1826. On August 2 of that year, Daniel Webster spoke about them in Faneuil Hall in Boston, about their leadership and example on education.

> But the cause of knowledge, in a more enlarged sense, the cause of general knowledge and of popular education, had no warmer friends, nor more powerful advocates, than Mr. Adams and Mr. Jefferson. On this foundation they knew the whole republican system rested; and this great and all-important truth they strove to impress, by all the means in their power. In the early publication already referred to, Mr. Adams expresses the strong and just sentiment, that the education of the poor is more important, even to the rich themselves, than all their own riches. On this great truth, indeed, is founded that unrivaled, that invaluable political and moral institution, our own blessing and the glory of our fathers, the New England system of free schools.

That was true for New England schools in the early years of our Nation. It is true for schools all across America today, and no bill that contains deep cuts in funds for schools deserves to pass.

This bill also deserves to be defeated for a further reason. It is an unconscionable attack on the dreams and aspirations of millions of working families across the country and their hopes for the future. I am talking about the fundamental tools, the building blocks, we have crafted in a bipartisan manner, in good faith, to provide realistic hope of the opportunity that comes with a decent job.

This bill breaks that faith. For example it proposes drastic cuts in the Summer Youth Program. This program has historically received strong bipartisan support. It began in 1964, and has been providing jobs for low-income youth for over 30 years under both Democratic and Republican administrations. In fact, it reached its highest level of assistance to young people under President Bush in 1992, when it provided summer jobs for 782,000 young men and women.

Even at this high water mark, we were barely beginning to meet the real need that exists. With over 8 million eligible youth across the country, deserving participants are far more numerous than we have positions for. In recognition of budget constraints, the current program is already 25 percent smaller than it was under President Bush. In 1995 we are serving 600,000 youth, and we anticipate reaching 550,000 in 1996 under President Clinton's funding request. That level represents jobs for only 6 percent of the eligible population. It is a priceless opportunity for the few who get to participate. We ought to be doing more, not less. It is unconscionable to do nothing.

All Senators know in their States that there are communities, towns and cities full of youths looking for this ray of hope. The Summer Jobs Program reaches out and provides their first experience with a job. Many have parents who are not working. Many live in areas where there are few opportunities to find employment, even for a short time. These summer jobs can make all the differences in their lives.

In our recent debate over welfare reform, there were many harsh comments about welfare dependence and lack of responsibility and the need to get these people a job. Everyone agrees that these people, as they are callously described, need employable skills so that they can get a job and perform effectively. It is ironic that in one of the first pieces of legislation we consider after the welfare debate, the Republican majority proposes to tear down a

program which can provide the very skills we all agree are needed for successful employment. They call their reform tough love—but it would more appropriately be called tough hate.

Some of the most virulent and most ideological critics claim that all programs like the Summer Jobs Program are ineffective.

They think Government has no business spending tax dollars on welfare for individuals—the only welfare they support is corporate welfare. Look at what the Department of Labor's inspector general said after his office analyzed the Summer Jobs Program.

> The work projects are worthwhile. Summer jobs are real, not make-work. Kids were closely supervised, learned new skills they could apply to their school work, and took pride in their employment.

Westat, Inc., a private research company, reported similar positive findings after undertaking a study of the program. A survey of supervisors involved with the program indicated no serious problems relating to behavior, attendance, or turnover by the youths in the program. The bottom line is, this program works and yet it is now facing elimination by the Republican majority in Congress.

In Massachusetts, we will lose over 13,000 summer jobs. Boston youth will lose over 1,500 job opportunities, Springfield teenagers will lose another 1,200 jobs. Where will they turn? The private sector plays an important role in providing summer employment—but they are the first to tell us they cannot possibly fill the gap for the hundreds of thousands of young men and women looking for work and experience. The youth who don't get jobs will more likely turn to the very elements we are hoping they can avoid—crime, gangs, drugs, welfare, and unemployment.

Where is the hope for the youths on the street with nothing to do but hang out on the corner and watch the drug buys occur? Where is the hope for the teenager who is fighting the temptations of the gangs but is unemployed? Where is the hope for the young men and women who want to graduate from high school and get a job—but have no idea what it takes to get a job and keep it?

So far in this Congress we have seen the Republican majority turn its back on the Nation's youth in many ways. Unprecedented cuts in student aid, the elimination of funds for the AmeriCorps National Service Program, deep cuts in the School-to-Work Program, deep cuts in education funds for disadvantaged pupils, the elimination of summer jobs. Again and again we ask, where is the hope? Where is the heart?

This bill should be a creator of hope, not a destroyer of hope. It is a deeply flawed bill that doesn't deserve to pass, and I urge the Senate to oppose it.

Mr. President, I yield the remainder of my time to the Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Senator from Massachusetts for his eloquent remarks and for his longstanding and strong support for the working people of this country.

There is no one in this Senate and in this Congress who has stood up more over a longer period of time and who has spoken more forcefully and eloquently for the working people than the Senator from Massachusetts. What the Senator just said in his closing remarks regarding the leadership of Thomas Jefferson and John Adams in education really had to bring it home to us again here today what we are doing.

Mr. President, again, to repeat for Senators, what we are facing right now is a vote at 10 o'clock on a motion to proceed. I am opposed to that motion to proceed because of the inclusion in the Labor, Health and Human Services appropriations bill of a rider, a rider that says that President Clinton cannot implement his Executive order regarding permanent replacement of striking workers.

Mr. President, I strongly oppose this amendment restricting the implementation of President Clinton's Executive order regarding permanent replacements for striking workers. First of all, the President's action is entirely lawful, fully within his authority, and conforms with the practice of previous Republican Presidents in labor issues. And perhaps more importantly, instead of passing such an amendment we should be saluting the leadership of the President in providing a good degree of protection for workers that Congress failed to enact last year in the striker replacement bill.

Under the Executive order, American workers in companies doing business of over $100,000 with the Federal Government can finally be assured that they will not be permanently replaced if they go out on strike. While that represents only 10 percent of all contracts, this order will affect 90 percent of Federal contract dollars.

The proponents of the amendment to nullify this claim that they are trying to maintain the power of the Congress over this matter. But it is clear that Congress has already acted to give the President this power, in the Federal Property and Administrative Services Act of 1949. We have spoken on this issue and this amendment is just an attempt to second-guess the President on an issue that is fully within his authority. President Bush used the same statutory authority to issue two Executive orders concerning labor. Yet we didn't hear our colleagues on the other side of the isle complaining then.

Furthermore, the U.S. District Court for the District of Columbia rejected a challenge to the President Clinton's Executive order on striker replacement on July 31, 1995. Specifically, the court held:

First, President Clinton acted within his procurement authority;

Second, there is a close nexus between the Executive order and efficient procurement; and

Third, Executive Order 12954 does not conflict with the National Labor Relations Act.

In other words, the court rejected all of the major arguments that have been made against the Executive order. The President has not abused or exceeded his legal authority—he has the power, given him by Congress in the procurement laws, to deny Federal contracts to employers who use permanent replacements for strikers.

In addition, there is no merit to the argument that he has done an end run around the Congress by trying to accomplish what the striker replacement bill had failed to do. President Clinton's Executive order is much more limited than S. 55, and deals only with how the Government chooses its suppliers of goods and services. The order does not attempt to change the National Labor Relations Act or outlaw the use of permanent replacements for strikers. It governs their use only with respect to the narrow class of Federal contractors.

Nobody has a right to receive a Federal contract. As one contracting party, we can insist on any conditions we choose. The findings of the Executive order state that prolonged labor disputes adversely affect costs of operations. Employers who want to insist on their right to permanently replace striking workers can do so—they just can't get Federal contracts.

The Executive order simply raises the stakes in a company decision, and will hopefully convince some companies to rethink their decision to hire permanent replacement workers. It is too easy for companies to think that they can help their bottom line by taking advantage of their workers. This only says that there is a price that must be paid.

Sometimes I wish the majority would go ahead and propose a law banning strikes entirely—it would be more honest than what they are trying to do here, again, today. A right to strike is a right to be permanently replaced. Every cut-rate, cutthroat employer knows they can break a union if they are willing to play hardball and ruin the lives of the people who have made their company what it is.

Workers deserve better. Workers aren't disposable assets that can be thrown away when labor disputes arise. When we were considering the striker replacement bill last year, the Senate Committee on Labor and Human Resources heard poignant testimony about the emotional and financial hardships that are caused by the hiring of permanent replacement workers. We heard of workers losing their homes and going without health insurance due to the costs of COBRA coverage, as well as the feelings of uselessness that workers often feel when they are permanently replaced after years of loyal, and efficient service.

The right to strike—which we all know is an action taken as a last resort, for no worker takes the financial

risk of a strike lightly—is fundamental to preserving workers' right to bargain for better wages and better working conditions. And recent studies have shown that the stagnation we have seen in middle-class standards of living is closely correlated with the decline of unions, and the loss of meaningful bargaining power.

At the same time, workers are losing the benefits that unions were able to negotiate. Since 1981, fewer workers have health insurance, pensions, paid vacations, paid rest time, paid holidays, and other benefits. Without the bargaining power of a union, companies provide these benefits only out of the goodness of their hearts. And without the right to strike—a right that is theoretically guaranteed by law, but that, in fact, is totally undermined by permanent replacements—the unions have no bargaining power either. What does it mean to tell workers, ''you have the right to strike,'' when exercising that right means that you can be summarily fired?

This is not about whether a company has to close its doors in the face of a strike. This only concerns the permanent replacement of strikers. Permanent replacements are given special priority in their new jobs—placing new hires above people with seniority and experience. We aren't suggesting that replacement workers can't compete for jobs—they just should not get special rights, over and above those of the workers who have devoted their lives to the company.

As a nation we have a choice—continue down the path of lower wages, lower productivity, and fewer organized workers or to take the option pursued by our major economic competitors, of cooperation, high wages, high skills, and high productivity. If we want to pursue that high skill path, we must do it with an organized work force. We can't do it with the destructive management practices of the past decade such as the threat of hiring replacement workers.

Federal contractors must have stable and productive labor-management relations if they are to produce the best quality goods in a timely and reliable way. The use of permanent replacement workers destroys cooperative and stable labor-management relations. Research has found that strikes involving permanent replacements last seven times longer than strikes that don't involve permanent replacements.

Using permanent replacements means trading experienced, skilled employees for inexperienced employees who labor at the bottom of the learning curve. For Federal contracts, we don't want the industrial equivalents of rookies and minor leaguers making tires for our next Desert Storm.

So, Mr. President, I urge the Senate to oppose this amendment. I think it is a distraction from this important appropriations bill before us. I intend to fight this effort every step of the way, to return the right to strike to at least some of America's workers.

Under this Executive order, American workers and companies doing business over $100,000 with the Federal Government can finally be assured that they will not be permanently replaced if they go out on strike. While that represents only 10 percent of all contracts, this order will affect 90 percent of Federal contract dollars.

Opponents of the amendment can nullify this, claim that they are trying to maintain the power of Congress. But Congress already gave the President this power in the Federal Property and Administrative Services Act of 1949. The Senator from Minnesota said every President since President Truman has exercised this authority. President Bush used the same authority to issue two Executive orders concerning labor. Yet, we did not hear our colleagues on the other side of the aisle complaining at that time.

As the Senator from Massachusetts said, the U.S. district court rejected a challenge to President Clinton's Executive order on July 31 of this summer of 1995. Specifically, the court held, first, that President Clinton acted within his procurement authority; second, there is a close nexus between the Executive order and efficient procurement; and, third, that Executive Order 12994 does not conflict with the National Labor Relations Act. In other words, the court rejected all of the major arguments that have been made against the Executive order.

The President has not abused or exceeded his legal authority. He has the power, given by Congress, to deny Federal contracts to employers who use permanent replacements for strikers.

In addition, there is no merit to the argument that he has done an end run around Congress by trying to accomplish what S. 55, the striker replacement bill, tried to do and which did not pass here.

I might point out again for the record, S. 55 had a majority of votes on the Senate floor, enough to pass, to ban the permanent replacement of strikers. We just could not get the 60 votes to break the filibuster. Again, this order does not attempt to change the RLA or the National Labor Relations Act, or outlaw the use of permanent replacements for strikers. It is used narrowly affecting only Federal contracts.

Mr. President, no one has a right to receive a Federal contract. As one contracting party, the Federal Government can insist on conditions, and that is the condition that President Clinton has insisted on, that if you do business of over $100,000, if it is a contract over that amount, you cannot permanently replace legitimate, legal strikers.

Mr. President, how much time do we have remaining on this side?

The PRESIDING OFFICER. The Senator from Iowa has 1½ minutes remaining.

Mr. HARKIN. I will reserve that minute and a half.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, it is my hope that we will proceed to take up the pending bill. It is obviously difficult procedurally to complete this bill before the end of the fiscal year, and it is already a matter of public record that arrangements have been made between the executive branch and the congressional leaders to have a continuing resolution, which is to be considered by the House of Representatives today and probably by the Senate today, to cover, on a temporary basis, the matters within this appropriations bill. And it is obvious that even if we could complete the Senate bill before the end of the fiscal year on September 30, we could not finish a conference in time. So the continuing resolution is the way that we will have to resolve these matters for now.

Still, as a matter of protocol and as a matter of form, we in the Senate ought to take up this bill at some point and debate the measures and come to a resolution. With respect to the provision on striker replacement, that is a long, complex subject which has been on the floor of the Senate on many, many occasions.

My own view is that there is a question as to the Executive authority on striker replacement in the context that the Congress has refused to act. But whatever that situation may be, it is my view that it is not appropriate to deal with this matter on an appropriations bill. In the full committee the striker replacement provision was reinstated in the bill to prohibit the use of any Federal funds to implement or enforce the President's Executive order. And it is unlikely that there are sufficient votes to terminate a filibuster. My own sense is that the issue will have to await action on another day. As I say, I think it preferable that such legislative matters not be taken up on an appropriations bill.

It is currently 9:44. We have some substantial time remaining for argument. I invite my colleagues on the Republican side to come to the floor if anyone has any arguments which he or she wishes to make.

How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Pennsylvania has 15 minutes 30 seconds remaining.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I understand, Senator HARKIN has about 1½ minutes, and then there is the time on the other side. I understand we are going to be voting at 10 in any event. I would like to—if there are other speakers, obviously they could speak—but I would like to talk, perhaps enter into a dialog with the Senator from Iowa just about some of the education provisions of the legislation. But I am more than glad to, if there are other Senators that want to address it——

Mr. SPECTER. I yield to Senator HARKIN and Senator KENNEDY 4 minutes of my time.

Mr. HARKIN. I appreciate the Senator yielding.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. I was just interested in something the Senator from Iowa pointed out during our markup in the Human Resources Committee on the issue of education. In this legislation we are talking about the support of the Federal Government for elementary and secondary education. This past week we talked about higher education. And the Senator, I thought, made a very interesting point about where we were in this country in terms of the deficit versus GNP at the time of the end of World War II when we went ahead and provided education grants to the sons and daughters of working families under the GI bill. And I understood from that discussion and debate that we had that every dollar that was actually invested in education returned eight times—eight times—to the Federal Treasury.

Mr. HARKIN. Yes.

Mr. KENNEDY. Does the Senator find in his own analysis of the investment in the kind of programs that we are talking about here in the education programs in this appropriation bill, that we get not only the dollar return for the investment in our young people and raising the academic achievement and accomplishment, hopefully, in our schools, that it is a sound economic investment as well as an investment in the young people of the country?

Mr. HARKIN. The Senator is absolutely right. You know, we keep hearing we have this big Federal debt, that we have to take care of it. We all want to take care of it and reduce the deficit and get a balanced budget.

Mr. President, the point I made in the committee the other day was that, after World War II we had a similar situation. The national debt was 110 percent of our gross national product—110 percent. Today, it is about 70 percent. Our debt is about 70, 75 percent of our gross national product.

They say we have to reduce our debt. I agree with that. The same situation confronted us in World War II. Did we stick our head in the sand and say no, we have to hunker down? No. We have to invest and invest in education. We have got all the GI's. We did not loan them money. We gave them money. We built student housing all over the country for them to live in. As the Senator from Massachusetts said, they paid this country back to the tune of 8 to 1. And it spurred the greatest economic growth this country has ever seen.

So, you want to get out of debt in this country? We better start investing in education. We are now reaping the harvest of the seeds that we have failed to plant over the last 30 years. When I first came to Congress in the 1970's, the Federal Government's share of elementary and secondary education was about 12 percent of the total amount of money. At that time there was a proposal that we have a one-third, one-third, one-third sharing of the cost of education. The Federal Government provided one-third, States one-third, and local governments one-third for elementary and secondary education.

The Federal Government, as I said at that time, was about 12 percent of total. You know what it is today, Mr. President? Less than 6 percent. We are going in the wrong direction. It has been going down ever since. We wonder why? We wonder why our schools are not producing better students? Why we are not becoming more competitive in the world markets? Why we are not reducing the deficit? Talk about the dumbing down of America. It is because Congress is not fulfilling its responsibility to invest in the education of this country. The Senator from Massachusetts is absolutely right.

Mr. KENNEDY. Would the Senator agree with me that money is not necessarily the answer to all our education problems, but it is a clear indication about where a nation's priorities are? And that every dollar that we cut back, whether it is reaching out to a Head Start child in trying to help and assist them develop confidence and skills or reaching out to helping teachers and parents at the local level, or providing the income contingency repayments for college loans, that for every dollar we cut from them, that we will be expending more in terms of social services to try to deal with the social problems that are created?

Mr. HARKIN. The Senator is right.

The PRESIDING OFFICER. The Chair informs the Senator from Iowa that the 4 minutes yielded to the Senator has expired.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I note the arrival of the Senator from New Hampshire on the floor. I had yielded time earlier, but we do have a speaker. I now yield 5 minutes to my distinguished colleague from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. I thank the Senator for yielding time on this issue before us which arrives here because of the concern of Members from the other the side of the aisle about the issue of the President's order on striker replacement. That is why we are having this not necessarily unique, but certainly not all that common, exercise of the vote coming up on the matter to proceed.

The amendment in the bill that has generated this activity is an amendment that I offered in committee and which was adopted in committee that would essentially not allow the President to go forward to enforce his order on striker replacement.

Now, the other side has already discussed at some length this issue. But let me make two points which I think need to be made.

First, the President's order is clearly in violation, in my humble opinion and I think a lot of other people's opinion in this body, of the separation of powers. It does not lie in the President's prerogative to step forward into this arena and unilaterally take action which is basically a legislative action which is exactly what the President's Executive order has done. Therefore, on that count alone, people should be voting in favor of proceeding because, if you do not, you are basically voting to transfer power from the legislative branch to the executive branch.

More important, however, is the issue of what is the underlying philosophy of this action taken by the President. We have heard a great deal of representation on the other side that this action was taken out of concern for working Americans, that it is an attempt to put working Americans on some sort of level playing field in the area of dealing with management.

Nothing could be less accurate, of course. The fact is, this action was a crass political action taken by an administration which had a debt to a special interest group. The special interest group happened to be organized labor, in this instance, and as one of the first paybacks to organized labor which had given it literally hundreds and hundreds of thousands of dollars, not only to the President's campaign, but to the campaigns of Members of the other party, they immediately took an action which abrogated a law and activity in labor which had been in place since 1938.

I guess it may be it is the other party's position that since 1938 we have had laws unfair to labor and they should have been changed for the last 50 years or so since they have been in place. The fact is, those laws have been in place for the last 50 years. Labor has functioned rather effectively in this Nation as a force for its organized membership, and management has also been able to function under the cloak of the present law as it existed for the last 50-some-odd years. Therefore, it seems to me that the playing field was not unlevel but had reached a rather good equilibrium between management and labor.

What the administration is trying to do in this unilateral act is to create an unlevel playing field, not for the purposes of protecting some beaten down group of individuals, but rather for the purposes of protecting its own interest in running for reelection and getting contributions and support from what happens to be a very specific special interest group in this Nation.

So this is purely special interest group pork-barrel politics is what it amounts to essentially. So if you want to vote against what amounts to labor pork or social pork, as it might be defined here, then you should not be supporting the administration's position

on this, you should be opposing it, because that is what this piece of legislation represents. It is a payoff to a special interest group. Nothing more, nothing less. And it was done in the crassest political way.

Furthermore, it was done in a way which violates very clearly the separation of powers which are so important, I note, to a couple of gentlemen who had been pointed out earlier in the discussion—John Adams and Thomas Jefferson, both of whom I suspect, were they here today, would be rather upset at the idea that the executive branch would be issuing an order which clearly is legislative in nature. It was, after all, they who, along with James Madison, designed the concept of separation of powers in order to have a balance among the executive and the legislative and, obviously, the judicial branches, which has been totally usurped by this action taken by the President.

So this is not some cause which has any right on its side, it is a cause that has special interest on its side and which affronts the separation of powers issue. Therefore, I strongly suggest that we not support the action.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired. Who yields time?

Mr. SPECTER. Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator from Pennsylvania has 4½ minutes, and the other side has 1½ minutes.

Mr. KENNEDY. Will the Senator yield time to me?

Mr. HARKIN. Mr. President, I yield my 1½ minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the provision restricting the President's power on issuing his Executive order has no place on this appropriations bill. It is legislation on an appropriations bill. The proper place is to follow the procedures of the Senate and to legislate in the authorizing committee. This is just another effort to short-change and effectively undermine the legitimate interests of workers as protected by the Executive order.

The legitimacy of the Executive order has been upheld in the courts and follows very careful precedents, which have been outlined.

This provision does not deserve to be on this appropriations bill. It ought to be stripped off the appropriations bill so that the whole issue of the education programs that affect the young people of this country can be fully and adequately debated.

Mr. President, I hope that we will not move toward the consideration of this legislation until we strip this unwarranted, unjustified attack on workers from the appropriations bill.

I yield back the remaining seconds of our time.

Mr. SPECTER. I yield 2 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 2 minutes.

Mr. INHOFE. Mr. President, I am a little distressed. I understand we are not going to be able to take up some amendments that I believe should be taken up on this bill. I, at least, want to get into the RECORD, in the hopes some of these things can be addressed in conference, my strong feeling about a couple amendments.

The Exon amendment, Coats amendment, and the Smith amendments address the same thing, and that is just a modest and overdue measure to get Government out of the business of promoting and subsidizing abortions. It is my understanding that under section 512, if not enacted, obstetrics and gynecology residents' programs will be required to perform abortions including late-term abortions. Residents with moral or religious objections who wish to opt out of performing abortions should be required to explain why in a way that satisfies stringent and explicit criteria. I am very much concerned about that. We have debated this issue over and over again. However, I am hoping this is something that will be taken up in conference.

The second thing is the amendment to defund Goals 2000, the Education Act. Under this program, Federal intrusiveness reaches a new height. The Goals 2000 creates tighter and more definite links between State, Federal and local levels and makes it easier for the Department of Education to tamper with local schools. The Goals 2000 is the idea that the Federal Government should be involved in creating and certifying standards for education and determining official knowledge.

I think if there is anything that has been very evident during the elections of November, it was a trend to get Government out of things, not in things, to get the Washington influence out of our lives instead of in our lives.

I certainly hope that we will be able to take up some measure at some point, perhaps in conference, to do away with the Goals 2000 program.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

Mr. SPECTER. How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 2 minutes remaining.

Mr. SPECTER. Mr. President, just by way of brief comment on the Goals 2000 program, that is a matter which is going to be subject to very substantial debate on the floor of the U.S. Senate. With my lead, we have funded Goals 2000 because of a view that standards and goals are necessary for education.

Way back in 1983, when Terrel Bell was Secretary of Education, there was a report about the crisis of education in America. It may be that we can remove further Federal limitations and Federal restraints within the Goals 2000 bill, but I strongly believe that we need to have goals.

The goals which are present are voluntary. The States may put on their own goals if they choose to do so. That is entirely within the discretion of the State. But education is an enormous problem in America. If we really had a generation of educated Americans, it would go to the cure of many of our very basic problems: Problems of teenage pregnancy, problems of welfare, problems of crime, problems of job training. It would all be surmounted if we had adequate education. I believe that Goals 2000, first adopted under a Republican President, President Bush, carried forward in this administration, is very, very important for America. This is not the time to get into extensive debate, but I look forward to an opportunity to discuss this at an appropriate time with my distinguished colleague from Oklahoma.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. INHOFE). All time has expired.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I would like to use a few minutes of leader time prior to the vote.

Mr. President, I want to commend Senators SPECTER and HARKIN for the effort they have made to do what they could with this piece of legislation. At the same time, I think everyone needs to be put on notice that this bill will be vetoed.

I believe that there is no other alternative but to veto this legislation. Frankly, while we have given some thought to trying, in as many ways as we could, to improve the legislation, in our view, it is beyond improvement. They have done the best they could. But this problem started when we passed the budget in the first place. This problem started when the allocation to Health and Human Services was provided in the budget resolution and by the Appropriations Committee. As the chairman of the subcommittee, Senator SPECTER, stated, the allocation ''is totally insufficient.'' It cuts $9 billion from the President's request. So there is no other word to describe this piece of legislation, in my view, than the word ''extreme.''

Cuts in health, education, job training, and all of the cuts that are provided in this piece of legislation will devastate kids, young people, and destroy the opportunities for families and workers, all in the name of providing a tax cut that we do not need this year. The majority has proposed $245 billion in tax cuts. In order to finance those tax breaks that benefit our wealthiest citizens, they have proposed the extreme measures in this bill. As I stated, over $9 billion is cut from the President's request in this legislation in areas that directly affect the strength,

health, vitality and the future of children and families.

It deserves a veto.

In addition to the cuts that are devastating in all the ways that I have already described, the bill before us contains a legislative provision that has no business in this appropriations bill. We have been forced to consider, once more, the striker replacement legislation. This legislation was considered in committee and considered again earlier on the floor that will, without a doubt, provoke extended debate on this bill if it is not removed from the bill.

Overturning the Executive order banning the replacement of striking workers by Federal contractors is wrong. I believe the vast majority of the Senate knows that it is wrong. It does not deserve to be in this bill. It ought to be taken out. And whether or not we ultimately are able to come to any conclusion about health and human services appropriations legislation directly affecting all of the programs for education, drug-free schools, for summer jobs, for the real heart and soul of what we try to do each and every year to give strength and vitality to young kids, will be hung up, in part, because of a minority view that striker replacement deserves to be in this legislation. It is wrong, it does not deserve to be there, and it ought to be taken out.

So, Mr. President, this bill will be vetoed. It will be vetoed because 50,000 children are going to be cut from Head Start. It will be vetoed because 650,000 disadvantaged kids will be denied educational opportunities. It will be vetoed because millions of kids all over this country are going to lose the chance to go to safe and drug-free schools, and are going to lose the opportunity to be educated about the need to avoid drugs. It will be vetoed because we are going to deny 600,000 kids summer jobs. It will be vetoed because 500,000 dislocated workers are going to be abandoned and not given the help they need to find new jobs. It will be vetoed because 96 percent of the funding for substance abuse prevention is wiped out in this bill.

Mr. President, this is an extreme bill. We ought to vote against it. But if, God forbid, it passes, it will be vetoed.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. GREGG. Mr. President, I ask unanimous consent that the second vote on the motion to proceed to H.R. 2127, originally scheduled to occur at 11 a.m., if necessary, now occur at 11:20 a.m., with time between the end of the 10 a.m. vote and 11:20 a.m. equally divided in the usual form.

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

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Danica Petroshius, a legislative fellow in my office, be granted floor privileges during the debate on the Labor-HHS appropriations bill.

Mr. DASCHLE. 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 hour of 10 a.m. having arrived, the question is on agreeing to the motion to proceed to H.R. 2127.

The clerk will call the roll.

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

The yeas and nays resulted—yeas 54, nays 46, as follows:

[Rollcall Vote No. 471 Leg.]

YEAS—54

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Packwood
Burns	Gregg	Pressler
Campbell	Hatch	Roth
Chafee	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
DeWine	Kyl	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—46

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	
Feingold	Levin	

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 46. Under the previous order, 60 Senators not having voted in the affirmative, the motion is rejected.

The Senate will come to order.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from West Virginia.

The Senate will come to order.

Who yields time?

Mr. BYRD. Mr. President, will the distinguished Senator from Massachusetts yield me some time?

Mr. KENNEDY. Mr. President, I understand there is an hour to be evenly divided. Am I correct?

The PRESIDING OFFICER. The time until 11:20 will be equally divided.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Approximately 25 minutes for each side.

Mr. KENNEDY. I yield 15 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I thank him for his leadership on this issue. Mr. President, I oppose the provision added to the fiscal year 1996 Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Bill in committee that would prevent any funds appropriated in fiscal year 1996 from being used to ''implement, administer, or enforce any executive order, or other rule or order, that prohibits Federal contracts with, or requires the debarment of, or imposes other sanction on, a contractor on the basis that such contractor or organizational unit thereof has permanently replaced lawfully striking workers.'' We must not weaken one of the most fundamental rights of organized labor, the right to strike, by threatening these workers with the possibility of losing their jobs. Mr. President, the right to strike is guaranteed to workers under the National Labor Relations Act and the Railway Labor Act, and is instrumental in preserving an equitable balance in labor-management relations.

On March 8, President Clinton signed Executive Order 12954, which prohibits all Federal contractors, with contracts in excess of $100,000, from hiring permanent replacement workers in the event of a strike. This Executive Order has already been challenged in court; however, on July 31, 1995, the United States District Court for the District of Columbia upheld the Executive Order. An injunction was also issued by the court staying all enforcement of the Executive Order so that opponents would have an opportunity to appeal before the U.S. Court of Appeals for the District of Columbia Circuit. The President has consistently opposed the use of permanent replacement workers, believing that the practice harms the American workforce and its productivity. By signing this Executive Order, President Clinton is seeking to ensure a stable supply of quality goods and services for the government's programs by protecting opportunities for cooperative and stable labor-management relations, which, he believes, ''is a central feature of efficient, economical, and productive procurement.''

Congress enacted the National Labor Relations Act [NLRA] in 1935, to establish collective bargaining as the preferred means of resolving labor disputes. The NLRA gives workers the right to join unions, to bargain collectively, and to participate in peaceful concerted activity to further their bargaining goals—all without fear of employer discipline. The economic strike is the ultimate form of such activity. Congress expressly protected the worker's principal economic self-help weapon—the right to strike—because it recognized that this was an important tool of labor in ensuring a level playing field in labor negotiations. I should point out, however, that for workers, exercising the right to strike means giving up wages and benefits, and exhausting any family savings—it is always a last resort.

The NLRA also established unfair labor practices forbidden by the Act. Among other prohibitions, no interference with the formation of a labor union was allowed, and employers could not interfere with employees engaged in organizing or bargaining collectively. After the NLRA was enacted, union membership grew from 3,584,000 in 1935 to 10,201,000 by 1941.

Before the 1930's—some of the Senators may not be able to remember what it was like before the 1930's. Some of them had not yet discovered America. But I remember very well.

Before the 1930's, Federal and State laws favored management, and union activity was discouraged. Efforts by the United Mine Workers [UMW] to expand their membership in West Virginia during the economic surge brought on by World War I resulted in a level of violence seldom seen in the annals of American labor history. In an effort to bring the benefits of unionism to the southern West Virginia region during the postwar years, the UMW mounted a determined effort to organize this region. The coal operators mounted an equally determined effort to keep the union out. Employers in some instances used force to prevent unions from coming into their plants or businesses. In West Virginia, every mine operation had its armed guard—in many instances two or more guards. Mine guards were an institution all along the creeks in the non-union sections of the State. As a rule, they were supplied by the Baldwin-Felts Detective Agency of Roanoke, Virginia and Bluefield, West Virginia. No class of men on Earth were more cordially hated by the miners than were these mine guards. Seemingly hired to keep the peace and guard company property, these guards spent much of their time harassing UMW officials and evicting thousands of union sympathizers from company-owned housing. If a worker became too inquisitive, if he showed too much independence, or complained too much about his condition, he was likely beaten by one of these mine guards.

County sheriffs and their deputies were often in the pay of the coal operators, and the State government itself was clearly in alliance with the employers against the mine strikers. Scores of union men were jailed, and Sid Hatfield and Ed Chambers, two union sympathizers, were shot dead—dead, dead—by Baldwin-Felts detectives on the courthouse steps at Welch, West Virginia, in McDowell County on August 1, 1921. At Blair Mountain, in Logan County, a three-day battle was fought. The Federal Government moved to end the struggle and President Harding issued a proclamation instructing the miners to cease fighting and return home. Military aircraft and a force of 2,150 regular Army troops were sent to West Virginia. Partly as a result of the military's intervention, the UMW's effort to organize that part of the coalfields lost most of its momentum. The southern West Virginia coal establishment was saved.

This failure of the UMW underscores the long odds organized labor faced at a time when workers' rights to form and join unions had not yet been formally recognized. It also underscores the key role Government involvement played in the efforts of many employers to keep unions out of the workplace prior to the passage of the NLRA in 1935.

In 1938, the Supreme Court ruled in NLRB versus Mackay Radio and Telegraph Co. that employers may ''permanently replace'' striking workers. In effect, this provided a legal way to ''fire'' these striking workers. Owen Bieber, former President of the United Automobile, Aerospace, and Agricultural Implement Workers of America [UAW] echoes this sentiment as follows: ''The permanent replacement of protected strikers is a contradiction in terms. It is pure double talk to say that although workers can't be discharged for striking, the worker can be permanently replaced. This distinction may have some meaning to lawyers, but all the ordinary worker knows is that he or she is not going back to work with the struck employer in the foreseeable future.''

The ability of an employer to convert a narrow limited collective bargaining dispute into a prolonged and divisive contest about the future of union representation and the future of the unionized workforce is reminiscent of the bitter disputes that preceded enactment of the NLRA and led to passage of the Act. When striking workers are permanently replaced, the strike turns into a confrontation about retention of jobs and the right to union representation. Strikes should be about working conditions and wages, not about the fundamental right of union representation.

Although the hiring of permanent replacement workers was not common for many years, the practice has escalated in recent years, and its use or threat of use occurs in one out of every three strikes.

More and more, during labor negotiations, union members are fighting for benefits such as health care, pensions, and safety. Wages are not necessarily the big issue. Due to the threat of overseas competition and downsizing, unions are fighting for their benefits, many of which are not provided by companies overseas. It should be noted, however, that our major trading partners, and competitors—Canada, France, Germany, and Japan—all have laws that prohibit the use of permanent replacements. In addition, the newly restored democracies of Eastern Europe prohibit this practice as well. The laws in these countries reflect the importance of collective bargaining in relation to efficient economic performance. Their laws encourage long-term bargaining relationships. In these countries, collective bargaining has been central in building the stable workforces of skilled long-term employees that are critical to success.

Although the President's Executive Order only applies to Federal contracts in excess of $100,000, it is important that the United States Senate does not back down by supporting the provision to overturn the President's Executive Order. The Federal Government should set an example not only for all businesses operating in the United States, but for overseas companies as well. We do not want to send a message that we believe it is fair to tip the balance of power in favor of business in collective bargaining. Both sides should have tools to work with in order for bargaining to be effective. An employer would still have the ability to continue operation during a strike by using temporary replacements, by subcontracting or transferring the struck work, or by operating with management personnel.

This provision, which we are debating here today, would return us to the days of widespread practices of unfair and unsafe working conditions. More and more is expected of our workers these days, and they deserve to work in a safe environment with health and retirement benefits and job security. The practice of hiring permanent replacement workers has adversely impacted the lives of many people and destroyed many communities and lifetime friendships. Many who have invested years with a company have lost their jobs due to a legal strike and have been permanently replaced. Savings accounts have been depleted, college funds have been used up, homes have been lost, health benefits no longer existed, and hope for a secure future has been diminished. Advancing age makes it difficult for many longtime workers to find new jobs.

Mr. President, we are talking about real lives here—real people who want to earn an honest living and provide for their families and their futures. These people are the backbone of our great nation, and we cannot afford to toss them aside and replace them with inexperienced, unskilled employees.

Mr. President, I urge my colleagues to vote no once again on the motion.

Mr. President, I yield back whatever time I may not have consumed.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I oppose the motion to proceed to consideration of the appropriations bill for the Departments of Labor, Health and Human Services and Education. I do so because I support the President's Executive order to ban the use of permanent striker replacement workers on Federal contracts. I strongly oppose the provision in this bill that prevents enforcement of the Executive order.

Some say that banning of permanent striker replacements will tip the balance toward labor unions. The balance

has already been tipped against workers. In 1970, only 1 percent of strikes involved permanent replacement workers. By 1992, employers were hiring permanent replacements in 25 percent of strikes.

If Congress repeals this order, we tell workers that they are disposable. We are telling working men and women that they can be tossed out onto a scrap heap of economic indifference.

Permanent replacement workers weaken the collective bargaining power of unions and that will bring down U.S. wages and living standards.

Strikes using permanent replacements last seven times longer than strikes that do not use permanent replacements. Strikes involving permanent replacements are more contentious and bitter, and that means that no one wins. Replacing strikers means replacing skilled workers with unskilled workers, experienced workers with inexperienced workers.

Some argue that this expands Presidential authority, I disagree. In 1992, George Bush issued an order that required all unionized Federal contractors to post notices in the workplace informing all employees that they did not have to join the union. President Bush did this even though legislation to include this notification, cosponsored by Congressmen GINGRICH, ARMEY and DELAY, was pending in Congress and was not passed.

Other Presidents have used their Presidential authority to issue Executive orders. In 1941, Franklin Roosevelt issued an Executive order banning racial discrimination by defense contractors. In 1964, Lyndon Johnson ordered an end to age discrimination by Federal contractors, and in 1969, the Nixon administration expanded this order to require affirmative action programs and goals.

President Clinton's Executive order is limited and reasonable. It seeks only to level the playing field for workers in Federal contracts. The Executive order applies only to contractors who try to permanently replace workers. It seeks only to protect workers who are engaged in a legal strike; it does not apply to illegal strikes. In addition, the Secretary of Labor must conduct a case-by-case review before any contract is terminated, and any order to terminate is subject to the review and approval of the contracting agency.

This action is a modest step by the President. It is not an attempt to create new Presidential authority. I support this Executive order to protect collective bargaining, unions, and U.S. wages.

Mr. KOHL. Mr. President, this is the second time the Senate will vote on the President's striker replacement Executive order and, I hope, the second time the Senate affirms the Executive order.

Our Nation's labor laws grant workers the right to strike and ensure that they cannot be fired during the course of a strike. To tell a worker who may have given many years of dedicated and loyal service that he or she has not been fired but permanently replaced is no consolation to that worker or their family.

In my many years as a businessman, I negotiated numerous labor contracts. I always understood that the workers were negotiating on behalf of themselves and their families. On some occasions, I stood firm. On other occasions, I gave way. On all occasions, I believe, both sides made concessions. We reached an agreement and went back to business. That was the process.

Mr. President, not once during those strikes did it ever occur to me that those workers would lose their jobs for striking. Not once did it occur to me that permanently replacing them was an acceptable practice. And yet today, you can see advertisements for permanent replacement workers even before the expiration of a labor contract.

The key to collective bargaining, Mr. President, is balance and good-faith negotiation.

The President's Executive order does not deny that labor disputes are going to occur. But it does acknowledge that such disputes should be fairly negotiated.

The Executive order is not unprecedented and is justified by helping to improve the quality and efficiency of Government contracts. It does so by encouraging companies that contract with the Federal Government to maintain a fair and stable working environment with their employees. And stable working conditions lead to increased productivity.

Contractors that choose to permanently replace lawfully striking employees during a workplace dispute not only risk damaging labor-management relations. They also risk disrupting the quality and progress of their Federal contract.

In simple terms, it is just bad business practice to hold the club of permanent replacement over the heads of employees. History shows that strikes involving permanent replacements last up to seven times longer than strikes that do not involve permanent replacements. It is common knowledge that such strikes tend to be much more contentious, often changing a limited dispute into a broader, more antagonistic struggle.

Most importantly, it is common sense that permanently replacing strikers means trading experienced, skilled employees for inexperienced ones. Inexperienced replacement workers start at the bottom of the learning curve, a circumstance that can sometimes have grave consequences in productivity and quality. With the President's Executive order, we can avoid such grave consequences under federally funded Government projects.

I urge my colleagues to remove the restriction on this legitimate Presidential Executive order.

Mr. BINGAMAN. Mr. President, we find ourselves today debating once again the use of striker replacements. This morning, we will conduct two test votes to determine, ultimately, whether or not we will allow the President to enforce Executive Order 12954, which prohibits the Federal Government from contracting with firms using permanent replacements in cases of legal strikes.

Although many of us have addressed this issue in the past, I would like to briefly outline my position on this important issue.

We all know that it is illegal to fire a worker engaged in a legal strike. We also all know that the Supreme Court Mackay Radio decision in 1935 made significant inroads into this protection from dismissal by allowing the hiring of permanent replacements for striking workers. In the last 15 years or so, the increased use of such workers has been one of many factors that have undermined a healthy relationship between workers and employers.

I believe that this country is slowly waking up to the idea that we cannot continue down a path where employers look only at short term profits, and trade in the prospect of our future for expediency today. We are not making the long term investments in capital and human resources that cost now, but will have tremendous payoffs in the future in terms of both profits and wages. We are also not creating the sort of working partnerships between employees and employers that are necessary for our long-term success in the world economy. We simply cannot be competitive in the world if we continue to trade our future for our short term gains.

Yet, the use of permanent replacements, I believe, is too often one more step on that path. Rather than address differences with legitimately bargaining representatives, thus developing partnerships, employers too often simply replace these workers. For that reason, I believe that we must discourage the use of permanent replacements, and I support the President's decision to not do business with firms employing this practice.

The President has found that the use of permanent replacements erodes labor-management relations, and thus adversely affects the cost, quality, and timely availability of goods and services procured by the Federal Government. I am confident that the President is taking an important step to discourage a practice that could have an adverse effect on our Nation's long-term economic prospects.

For these reasons, I will vote ''no'' on cloture.

Mr. HOLLINGS. Mr. President, the issue before us is not striker replacement, but education. I supported the striker replacement provision in committee and hope it survives.

However, I continue to fight to cool the fever to cut education that has gripped this Congress. I want to cool that fever and break it. Both parties have supported education funding in the past, but now the Republicans

think they have a mandate to cut reading and math assistants for kids in school. They find a mandate to reduce college student aid while tuitions rise faster than inflation. Nothing could be further from the truth.

Specifically, in May, the Senate debated and passed a budget resolution that would cut education by 33 percent over the next 7 years while delivering a tax cut before the next election. During the debate, I, along with Senators HARKIN, KENNEDY, and others offered an alternative that better fits with what the American people want. We proposed to protect the 2 percent of the budget now devoted to education by providing a smaller pre-election tax cut.

Unfortunately, our proposal to protect education was voted down, and today we are considering an appropriations bill that takes the first step to implement the wrongheaded budget plan that passed. Specifically, this bill cuts $2.1 billion in fiscal year 1996 from the discretionary education budget. It cuts Head Start, college grants, vocational education funds to help high school students move into higher-wage jobs, subsidies targeted largely to elementary schools with disadvantaged children, and school reform funds. It cuts antidrug education in the schools, magnet schools, adult literacy funds, and grants to improve the academic programs of 2- and 4-year colleges that are strapped for funds and that serve many lower-income students seeking to improve their economic independence. In short, it takes a $2.1 billion step backward while everyone knows we have to press forward in the current economic climate. Because of these cuts, I am opposing the motion to proceed to this bill.

Many of our constituents have felt the sharp edge of economic downsizing. In the government sector, we are cutting the Navy Base in Charleston, and the private sector has done even more to downsize and cut benefits. Traditionally, Americans have relied on a system of public education and college assistance to prepare them and their children to weather such transitions and gain economic independence. We learned after World War II that it pays to help people attend college, and we have learned for more than the past century that free public schools are essential.

Congress now seems to have forgotten these lessons of history, despite continuing evidence that education spending has been critical for economic growth. The Department of Labor estimates that 20 percent of U.S. economic growth since 1963 has stemmed from increased education in our work force. Where would our country be now, relative to Japan and Europe, if its economy were that much smaller? Congress should be fighting to ensure this kind of growth in the future, not fighting to cut education and give families making over $100,000 per year a tax cut before the next election. After rushing to bail out Mexico and refusing repeatedly to stop exporting American jobs, we should now work hard to invest in the future, not to give away the public store as a political goodie.

On the individual level, too, voters know that education makes a difference for the future. A recent study of identical twins found that the more educated twin makes 13 percent more on average. Why is this Congress implementing plans to cut back on the long-term individual achievement of the 44 million children in U.S. public schools and the more than 6 million college students receiving student financial aid in order to quickly provide tax cuts to a smaller set of people who already have made it? No political payoff is worth such a plan that will hurt individual achievement and the economic potential of this Nation.

Aside from denying history and current research, this plan flies in the face of the basic facts about school enrollments. It is not rocket science: The number of children is rising. There will be 5 million more children in school in the United States 7 years from now. Thus, public school attendance will rise more than 10 percent, but Congress plans to cut education funding by 33 percent. At the college level, not only are enrollments rising, tuition is going up faster than inflation while we debate $10 billion in cuts to student aid on reconciliation.

I do not know what else I have to say to prove that the education part of the current budget plan is perverse. We do not need a pollster to tell us that it is not the best effort that this Congress should make for the people. The average voter probably would find it hard to believe that we are really pursuing it. Far from keeping a Contract With America, this bill represents a broken promise to educate our children.

Mr. DODD. Mr. President, I rise today to oppose the motion to proceed to the Labor, Health and Human Services appropriations bill until the striker replacement provision is struck from the bill. If included, this provision will block the implementation of the President's Executive Order on striker replacements. This is a matter of fundamental fairness for working people in this country.

During the course of this century, all Americans—regardless of income level—benefited from our country's economic growth. We grew together, and an expanding economy meant better jobs for everyone. A typical family could work hard and experience an increased living standard, whether that meant buying a home or putting a child through college or taking a simple family vacation.

But in the past two decades, while our Nation's economy has continued to grow, fewer and fewer Americans are sharing in these gains. The vast majority of this growth—97 percent of our real income growth since 1979—has gone to the top fifth of households. In contrast, the fifth of Americans at the lowest income levels—Americans who previously had been the principal beneficiaries of economic growth—saw there incomes decline by a staggering 17 percent between 1979 and 1993. In short, Mr. President, the rich have gotten richer and poor have gotten poorer.

As 80 percent of our population grapples with economic hardships, they look to each of us to rectify this problem and build a stronger economy that will be shared by all Americans.

President Clinton has demonstrated his commitment to doing something about this problem. He has advocated wage increases and skills training to help ordinary Americans compete and succeed. Unfortunately, our Republican colleagues have blocked these efforts.

In fact our Republican colleagues have denied working Americans a series of advancement opportunities, including summer jobs for youth, student loan, and child care.

What is the Republican solution? Tax breaks. Fifty-two percent of those tax cuts would benefit people earning $100,000 or more per year. That is not a solution for the single mother with a minimum wage job fighting to keep her children clothed, fed, and safe. That is not a solution for a factory worker struggling to make his mortgage payments. That is not a solution for the vast majority of working Americans. We must do better for them,

The President has done better. His Executive Order directs Government agencies not to contract with firms that permanently replace striking workers. In issuing this Executive Order the President recognized that workers have few powerful tools at their disposal. The right to strike is one of those tools. Permitting employers to permanently replace striking employees throws the labor system out of balance. The Executive Order redresses that imbalance.

The striker replacement provision of the Labor and HHS appropriations bill seeks to obstruct implementation of this vital order. Therefore, I oppose the motion to proceed to the Labor, Health and Human Services bill until the striker replacement provision is struck from the bill. There are several reasons why this provision should be struck.

First, product quality will be jeopardized if Government contractors are permitted to permanently replace striking workers. Firms which permanently replace their workers have, by definition, terrible management-labor relations. This in turn creates a poisonous atmosphere which can't help but damage product quality.

Second, quality and workplace safety will also be threatened. Replacement workers possess fewer skills and less experience than the strikers whose positions they fill. The President has a responsibility to ensure that Federal contractors provide a safe working environment as well as only the highest quality goods and service. This Executive Order will help achieve those goals.

Third, the President's order sets a high standard for cooperative labor-management relations at a time when the increasingly competitive global economy demands it. Management and labor must join in a common quest to produce a good product at a competitive price. Hopes for that kind of cooperation are dashed when management permanently replaces its employees. The President's Executive Order puts the Federal Government on record opposing such tactics.

If our Republican colleagues succeed in blocking the President's Executive Order on permanent replacement workers, they will send a message to ordinary Americans. And that message will be that after years of losing ground on pay and benefits, they could lose their jobs—solely for exercising their fundamental right to strike. They will send a message that the Federal Government rewards with Federal contracts employers who create hostile work environments. Basically, they will send a message which tells working Americans, ''tough luck.''

That is the wrong message to send. The right to strike has been a basic tenet of American labor policy for six decades. It is illegal to fire an employee for exercising that right. Permanently replacing strikers is a loophole in the law. With the striker replacement provision, we would permit the Federal Government to take advantage of a loophole which allows employers to circumvent the law.

What is the right message to send? That the Federal Government recognizes and respects the law. That we want to help American workers.

Several labor-related Executive Orders made by Presidents Reagan and Bush provide ample precedent for President Clinton's action, and I hope my colleagues will support the President and do something positive for working Americans.

I urge my colleagues to join me in opposition to the motion to proceed to the Labor, Health and Human Services bill until this provision is struck from this bill.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. If there is no demand for time on the Republican side, I yield myself 8 minutes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, let me comment on two aspects. One is the intrusion of the striker replacement into this, and then on the dollars themselves.

What we know from studies, and particularly the Harvard study, is that union workers by and large are more satisfied, and more satisfied workers produce quality work, and that union workers stay at a job longer.

This moves us in the opposite direction. What we need in our society is balance.

I see the distinguished senior Senator from West Virginia. He has seen more of our history and certainly studied it more than I have. But over the years, since the 1930's, we have tried to have a reasonably good balance. Frankly, when there is a Republican President, the National Labor Relations Board tilts a little bit in the direction of management, and when there is a Democratic President, it tilts a little bit in the direction of labor. But when President Reagan came in—and he did many good things—the balance was lost. And while, for example, at one point Canada and the United States both had about 33 percent of our work force belonging to labor unions, Canada has gone up to 36 percent, and in the United States, we are down to 16 percent. And if you exclude the governmental unions, it is down to 11.8 percent.

It was very interesting for me to pick up the New York Times and read an article by George Shultz, who most recently was Secretary of State under a Republican administration but at one point was Secretary of Labor, and George Shultz said things are getting out of balance; we have an unhealthy small percentage of our work force belonging to labor unions.

Now, part of this balance was self-restraint. Through most of our history, no industry just permanently replaced strikers. And then we have had a few instances of it. Greyhound did it, and we had Bridgestone/Firestone, and that came up on the floor of this body. It is very interesting because Bridgestone/Firestone is a Japanese-owned corporation today. Permanently replacing workers in Japan is illegal, but they did it with their United States entity. The only places where it is legal in industrialized democracies are Great Britain, Hong Kong, Singapore, and the United States of America. In all the other Western European nations and Japan, it is illegal.

I believe the President's Executive order has brought just a trifle amount of balance here. We need more. We need to be doing a lot of things to provide some balance. And what we also have to do as we provide balance is to try to get labor and management working together. I am pleased to say that in the State of Illinois it looks as if Caterpillar is moving toward resolving that problem.

Let me second, Mr. President, talk about the appropriation and where we are. We have under this proposal said—this is compared to the 1995 appropriations, and this is assuming that the Senate bill passes; the House bill is even worse—in the State of Illinois, 42,395 fewer people will be helped.

Let us take West Virginia because West Virginia is like my home territory of southern Illinois—good, fine people but below average education and below average earnings. In West Virginia, 11,413 people. Let us take another example, Mr. President, we forget about here frequently. The citizens of Puerto Rico are all American citizens. They contribute in terms of Armed Forces and bloodshed more than almost all of our States. In Puerto Rico, 39,924 fewer people are being helped. The average income in Puerto Rico is less than half the average income in Mississippi, the bottom of our 50 States. Puerto Rico gets the short shrift in legislation after legislation because there is no one in the Senate to defend them. We have what we call Commonwealth States. Old fashioned colonialism is what it is. One of these days inevitably Puerto Rico will either become independent or become a State, and that choice I think should be up to the people of Puerto Rico, whatever their decision.

Let us take dollars now. In the State of Illinois, $84,747,000 less than the 1995 appropriation under this bill; West Virginia, $21 million less. This is money for education, for people who need help, for summer jobs for youth. Puerto Rico—I mentioned $84 million for the State of Illinois. Puerto Rico, roughly one-fourth of our population, $70 million less.

These programs, Mr. President, do good for people. Let me just mention one—title I. It used to be called Chapter 1. This is for the more impoverished areas. People say money alone is not going to solve our problems. There is no question, money alone is not going to solve our problems. But without the resources we are not going to do it.

What has happened to 9-year-old black males since title I has been in effect? An 18-percent increase in math scores, a 25-percent increase in verbal scores. Those are good kinds of things.

Head Start. I do not know anyone who believes Head Start does not help these young people. I will never forget visiting the Head Start Program in an impoverished area in Rock Island, IL. Almost every Head Start Program, every one I know of, has a waiting list. We are not providing enough help. One group of young people comes in Monday morning; Tuesday morning another group; Wednesday morning a third group, and so forth. I asked the woman in charge, what would it mean in the lives of these young people if they could be in here every day instead of 1 day a week? She smiled and she said, ''You could not believe the difference it would make in their future.''

Oh, we save money when we do not provide help to them, like you save money when you build a house and you do not put a roof on it. But you do not save money in the long run. We have to invest in our people.

When I was in the fourth or fifth grade, something like that, I read in my geography book that the United States was wealthy because of its natural resources, our oil and coal and all these other things. And then all of a sudden about 15 years ago, I got to thinking about it. The countries that were moving ahead relative to how the United States was moving ahead, much more rapidly than we were—Sweden, Japan, Taiwan, South Korea—why were they moving ahead? They were moving

ahead because they were investing in their people.

We need to invest in the people of West Virginia. We need to invest in the people of the central city of Chicago. We need to invest in the people of southern Illinois—good, hard, coal mining people, farmers, and others who are struggling on topsoil much of which, as in West Virginia, is not great.

We need to invest in our people. When we do, it pays off. The GI bill after World War II—Senator BYRD and I are old enough to remember that—we thought of it as a gift to veterans. It was an investment in our own prosperity. It was a huge, huge plus for this Nation.

We have to do that again. I hope one of these days we will have the vision and the courage. What we are going through now, because of what we have done—and I am for the constitutional amendment; the Senator from West Virginia and I differ strongly on that—what we are trying to do legislatively is like a New Year's resolution. We are having a New Year's resolution where we are going to balance the budget. But you know what we want to do with this? It is like a diet, a New Year's resolution and a diet. We are going to start off with a great big dessert, a $255 billion tax cut. That is what we are doing. It is ridiculous. We ought to be using that money to invest in our people.

I hope this appropriation is rejected, Mr. President.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes remaining on his side; 25 minutes for the other side.

Mr. KENNEDY. Mr. President, the silence on the other side is really deafening in response to the points that have been raised in the early part of this discussion and debate as well as during this time.

Mr. President, I yield myself just 4 minutes.

Mr. President, I think the case has been made about the authority of the President to make this Executive order. The ink on the Executive order was not even dry before it was challenged by our Republican friends, in spite of the historic precedents establishing the power and the authority and the constitutional right of the President to act in this regard.

The Executive order is well founded and well justified, when we look at what is being sought in terms of having an orderly procurement program for the Federal Government: to ensure that there will be quality products manufactured, that they are going to be purchased on time, and recognizing the realities of the striker replacement issue.

Mr. President, the issue concerning the cuts that are in the appropriations bill in terms of education has been debated and discussed. I want to just take a few moments here to put into perspective this whole issue about undermining the opportunities for workers to be able to gain a decent, livable wage in the context of other actions that are being forced on the working families of this country by the majority Members of this body.

We saw the first efforts on March 15 of this year when the attempt was made to undo what the President has done to protect workers' historic and legitimate right to strike and to prevent their permanently replacement by Federal contractors.

We have to look at the mosaic that is being created, not only back in March, but during the period of the summer. What we have seen is a basic assault on working families. We have seen the assault on the Davis-Bacon program. Why do Republicans want to attack the Davis-Bacon program? The average income of the Davis-Bacon worker is $26,000 a year—$26,000 a year for hard work. Why are we denying those men and women who are in the second or third most dangerous occupation, outside of mining and perhaps logging, that work on Federal building projects, the third most dangerous work, the opportunity to be able to gain a decent wage of $26,000?

Next came their opposition to increasing the minimum wage. Republicans and Democrats alike have fought for increases in the past. This is not a partisan issue. President Bush signed the last minimum wage increase of 90 cents. Nonetheless, we have resistance to help men and women prepared to work 40 hours a week 52 weeks a year to be able to have a livable wage so they are not in poverty. We heard a great deal about the importance of work in the welfare debate. Here are men and women who want to be off welfare, want to work, being denied the opportunity to have a livable wage. That is No. 2.

No. 3. In the budget, the cutting back of the earned-income tax credit. Who does that affect? Needy workers below $26,000, to help and assist them when they saw the increase in the cost of Social Security and expanded family obligations so that they could be able to provide for their children—a worthwhile program. And yet we find our Republican friends trying to squeeze that back, effectively squeeze it so that working families with less than $26,000 are going to have to pay more in taxes. A tax increase on the working poor.

And what do we have yesterday over in the House? We have the Republican proposal to open up all the pensions again, $40 billion of retirees' pension money that will be available to corporate America. We saw what happened in the 1980's when we had the plundering of the pensions. Those pensions belong to workers, not to corporate raiders. Those pensions have been paid in and paid in as a result of sacrificing increases in wages and health benefits. And now under the Republican proposal, we would permit the corporate raiders to reach in there for $40 billion to increase their salaries, their bonuses and their stock options.

This is a continuing effort of assault on the working families of America. And beyond that, Mr. President, is the slashing of the various training programs for workers that have been displaced as a result of defense downsizing, of the mergers that have taken place. We saw just the other day the merging between the Chemical Bank and the Chase Bank, and Wall Street go euphoric in terms of that merger. Twelve thousand Americans are laid off. Who is going to speak for them?

I yield myself the last minute.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I thought I yielded myself 4 minutes.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPECTER. Senator KENNEDY may have 1 minute of my time.

Mr. KENNEDY. I thank the Senator.

Who is going to speak for those kids? You cannot pick up a newspaper today without finding massive layoffs, not just of needy blue collar workers, but also the white collar workers and men and women who have worked in these companies and corporations for years. We have to speak for them.

Mr. President, this is just one additional part of that puzzle. This appropriations bill should be stripped of the provisions that are basically an attack and assault on the President's statutory and constitutional rights that have been upheld in the Federal courts. And then we should get about the debate on the substance of the appropriations issue.

Mr. President, I thank my colleague from Pennsylvania, and I yield the floor.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 24 minutes remaining.

Mr. SPECTER. Mr. President, I ask my Republican colleagues who may be listening to come to the floor if they wish to speak in support of the motion to proceed.

The distinguished Senator from Wisconsin has asked for 5 minutes. I yield him 5 minutes at this time, with the request to my colleagues on the Republican side to come to the floor if they wish to speak.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. And I thank the Senator from Pennsylvania very much.

Mr. President, I voted ''no'' on the motion to proceed to consideration of the Labor-HHS appropriations.

A number of problems in this measure have been highlighted in the debate, but I would like to focus on one

particular provision, the attempt to override the President's Executive order banning the use of permanent replacements for striking workers employed by Federal contractors.

We had a long debate about this a few months ago, and I had a chance the speak at length. So I will be brief today. But this is an issue that I feel very strongly about, and I fully support President Clinton's efforts in this area to halt the erosion of workers' rights.

I had a chance to work on this issue for many years when I was in the Wisconsin State Senate and tried to pass a Wisconsin law on this issue. But throughout the process it was very clear that what had happened in the early 1980's with the PATCO strike led to an avalanche, really, of the use of permanent replacement workers across this country in a way that had never happened before. It has had serious consequences for working people throughout Wisconsin and across the country.

Mr. President, earlier this month, just a few weeks ago, I had the painful experience of meeting with workers who had just gone on strike against a large employer in a rural Wisconsin community. These workers came to one of the listening sessions or town meetings that I hold every year in each of Wisconsin's 72 counties.

I would like to read, to highlight this issue, from a statement of James Newell, the principal officer for the Teamsters Union, on this issue. I can think of no more eloquent testimonial than the words of Mr. Newell that day, in a small townhall in Wisconsin, just a couple of weeks ago.

He said:

> Sir, you have entered into a community today that has been infected with a disease that has become much too prevalent in American society over the past few years. Just a few blocks from here, there are more than 100 hard-working men and women engaged in a struggle with this community's largest industrial employer. The flashpoint of this firestorm was not the traditional economic issues of higher wages and benefits—although Lord knows they are desperately needed here and will be at issue before this battle is over.

He continued to say:

> This controversy was ignited by issues which transcend price tags; the issues of fairness, safety, job security, and basic human rights to self-respect and dignity on the workshop floor.

Mr. President, Mr. Newell continued by describing what is happening all too often across this country in the use of strike breakers.

> Three (3) years ago, this community faced a major loss of employment at this facility brought on by its intended closure by a national conglomerate which owned and operated it at that time. The work force gave tremendous concessions, both in economics as well as job security provisions, to allow present ownership to acquire and build the business and to preserve those jobs in the Owen community. Now, after we have done our part and contributed to the new company's success, we are told that some of our basic requests for a return of rights previously given up is somehow un-American in light of global competition and the employer's interest in maximizing profits.

Mr. Newell described in his statement about the events that followed. He testified that since the confrontation began,

> We have not been greeted by any desire from this employer to return to the bargaining table and work out these disputes, but rather by the employer's unilateral cancellation of two (2) scheduled bargaining sessions this past week and the veiled threat of canceling a third (3rd) session scheduled for the coming weeks. We have seen our lost wages being utilized to pay for an unnecessary insulting security guard force. We have witnessed safety shortcuts being implemented at the potential peril of those few who are still working in the plant. And, perhaps most outrageous of all, we have witnessed this employer stoop to the level of enticing high school students—

High school students—

> to cross the picket line and perform the work. We wonder what kind of society we have evolved into when schoolchildren can become pawns to break labor disputes.

Mr. President, Mr. Newell concluded with an observation about what is happening across America today. He said:

> What is happening in this community today is a microcosm of what has been slowly eating away at the American fabric for years . . . Progress and efficiency cannot be had at the expense of basic human dignity.

Over the past few days, the workers became aware that plans were being made by the company to bring on permanent replacement workers. Those hired during the strike are going to be considered permanent. The strike ended. There is little doubt that the threat of hiring permanent replacement workers shifts the balance at the bargaining table. That is an unfair leverage that was imposed upon this community. That is not what bargaining is supposed to be about. When one party is given a tool like this, there is little realistic hope that a fair result will ensue.

It may mean higher profits today, but in the long run, it is a bad result for a community, for America's work force and for our entire country. America's workers, Mr. President, should not be treated like disposable goods.

I yield the floor.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 10 minutes 39 seconds.

Mr. SPECTER. How much time does the Senator need?

Mr. NICKLES. About 5 minutes.

Mr. SPECTER. I yield 5 minutes to the Senator from Oklahoma.

Mr. NICKLES. I thank my friend and colleague from Pennsylvania for yielding the time.

Mr. President, I urge our colleagues to vote to proceed to this appropriations bill. I cannot recall—and it may be that we have done it—somebody objecting to a motion to proceed to an appropriations bill. Maybe a couple years ago in dealing with an Interior bill, which I was actually a manager of, that had on it an issue on grazing, and there was some legislation on that bill. Maybe that happened and we wrestled with it for a couple of days. But I do not recall anyone objecting to proceeding to the bill, though.

I have heard a couple colleagues on the other side of the aisle saying they had problems with one of the provisions in the bill relating to prohibiting President Clinton's Executive order dealing with striker replacements. If they do not like that language, if we proceed to the bill, they have the opportunity to amend it and strike that language if they have the votes. That is fine.

That is the way we usually handle appropriations bills. There are some things in this appropriations bill I do not agree with and on which I plan on having an amendment. Not everything done in committee I agree with. So I understand that some people on that side of the aisle are not happy with the bill or want to see some changes, some amendments. Other people on this side, would like to see some changes. Maybe we can come to an agreement on the number of amendments and hopefully pass this bill. We happen to be running out of time. We are supposed to have all appropriations bills done by the end of this month. We lack two. This is one of them.

Let us find out where the votes are concerning this one provision dealing with the President's Executive order. The House put in language that denies funding to implement the President's Executive order, which prohibits companies from hiring permanent replacement workers during strikes. The Senate kept that language in. I happen to agree with that language. Somebody might say, why is that language necessary? Well, the President, by Executive order, is trying to pass legislation. I really disagree with that. I disagree with the substance of the legislation, and I also disagree with Executive orders that try to legislate.

In this case, there was legislation introduced that was very high on President Clinton's priority list. The Democrats controlled Congress for the first 2 years of his administration. They introduced legislation that would state basically that companies could not hire permanent replacement workers during a strike. They did not have the votes. They were not able to pass that legislation.

So after the change in the control of Congress, President Clinton said, well, I will bypass Congress and do it by Executive order. Basically, it states that if any company or any branch of any company does any contracting with the Federal Government, therefore, they will be denied access to Government contracts if they hire permanent replacement workers during a strike. That is clearly legislation.

Again, I hope that our colleagues, Democrats and Republicans alike, will

take exception to the executive branch if they are legislating. The Constitution, in article I, says Congress shall pass ''all'' laws. It does not say ''some'' laws; it says ''all'' laws. It does not say that if the President cannot get his legislative program through Congress, he can do it by Executive order. That is exactly what this President is trying to do.

He is trying to legislate. I hope and think that people from the legislative branch would take exception to that—even if they agree or disagree with the substance of his Executive order or his legislation that he is trying to enact through Executive order.

So, again, I understand and respect that we have differences of views on this legislation. That is fine. I might say it is not totally partisan on this one issue, but we should vote on it. We should legislate on it. If colleagues wanted to pass a prohibition, they should introduce legislation and let Congress work its will. We have the right to pass this prohibition. For Members to say we are not going to take up the Labor-HHS appropriations bill because it has an amendment that we do not like—this bill has total funding, I think, of $263 billion in budget authority for the Department of Labor, Health and Human Services. That is a big bill. To say we want to totally deny taking up this bill because we disagree with one funding prohibition, I think, is not very mature. I hope that we would not do it.

Again, I cannot remember Congress doing it. In my opinion, also, it is not a responsible way to legislate. Congress should legislate and we should enact our will. I should have a chance to offer my amendments on some things that I disagree with and find out where the votes are. Maybe I will win, and maybe I will lose. I doubt, when you have a bill this large, that everybody is going agree with everything. So we should work our will. We should have a chance to amend this bill, and we should finish this and all appropriations bills by the end of this month. I think we are being somewhat irresponsible if we do not.

I urge my colleagues on the Democratic side, all of whom voted against the motion to proceed, to allow us to proceed to this bill and have Congress work its will and hopefully pass this and the Commerce, State, Justice bill before we adjourn this month.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 4 minutes 5 seconds remaining.

Mr. SPECTER. Mr. President, it would be my hope that we would proceed to consider this bill. It is, obviously, a party line matter at this point.

As I had said earlier, when the bill came out of the subcommittee, we struck all of the legislative provisions, because in my view, and the view of the members of the subcommittee, we ought not to take up legislation on the appropriations bill. That was the policy of the Appropriations Committee as a general rule on all matters endorsed by our distinguished chairman, Senator HATFIELD. But it is my hope that we will take up the bill.

As a practical matter, it is difficult to proceed to finish this bill before the end of the fiscal year. Certainly, we could not have a conference even if we could finish it on the Senate floor, if this subject is going to be comprehended within a continuing resolution.

I invite my colleagues on the Republican side, who wish to come to the floor to speak in favor of the motion, to do so.

How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 3 minutes 30 seconds.

Mr. KENNEDY. May I have a minute?

Mr. SPECTER. I yield a minute to my distinguished colleague from Massachusetts.

Mr. KENNEDY. Mr. President, I think the membership understands what is at stake. As the Senator from Pennsylvania pointed out, there was a stripping away of all the other add-ons onto the appropriations, with the exception of one. There was a refusal to strip that aside. That particular amendment was targeted on the constitutional authority of the President of the United States. And that issue had been resolved in the courts of this country in support of the President of the United States.

So it does seem to me that that issue should be stripped off before we get back into the debate on the other priorities. I thank the Senator for yielding. I join with others in saying that I think Senator SPECTER and Senator HARKIN did as well as could possibly been hoped for in terms of trying to take scarce resources and focus them on education. But I do think that it would be appropriate to have a reexamination of where we are as a nation in the course of the consideration of the appropriations to underscore the fact that this provides billions of dollars less in terms of investing in young people in this country at a time when their needs are as great as they are.

I thank the Senator for the opportunity. I hope that the motion to proceed will not be accepted and that the ''no'' vote will carry.

Mr. SPECTER. Mr. President, I suggest one correction to what the Senator from Massachusetts said, and that is, that all of the legislative proposals were stripped by the subcommittee. When they got to full committee there was a vote 14–12 to reinsert this with respect to the striker replacement.

It was my hope we would bring the bill to the floor solely in the context of an appropriations bill.

I thank the Senator from Massachusetts for his statements about doing the best we could. It is my hope this bill will yet come up. There are many issues that need to be debated and voted on, a lot of differing views in this body.

There are some who plan to offer amendments to try to increase funding for job training—or for education—which I certainly would like to see, if there is any way we could do it.

At some point these matters will come to the floor, if not on this motion to proceed. It is my hope we will support the motion to proceed and go ahead with this very important bill.

The PRESIDING OFFICER. The Senator has 45 seconds remaining.

Mr. SPECTER. I yield the balance of the time to Senator NICKLES.

Mr. NICKLES. Mr. President, I want to clarify one thing that my colleague from Massachusetts just mentioned; he said the courts have upheld the President in this matter.

I might mention that the district court upheld the ruling but it is pending still before the court of appeals, and recognizing this case was unprecedented, the district court judge suspended implementation of the Executive order until the court of appeals acts. The courts have not made a final decision.

Many think this is clearly legislation by Executive order, and the President exceeded that. The President has taken several actions by Executive order. This is one. It is not the only one that is really legislation that many feel very strongly about.

We should vote and we cannot vote unless we move to proceed to the Labor-HHS bill.

The PRESIDING OFFICER. Under the previous order, the hour of 11:20 having arrived, the Senate will now vote on a motion to proceed on H.R. 2127.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 54, nays 46, as follows:

[Rollcall Vote No. 472 Leg.]

YEAS—54

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Packwood
Burns	Gregg	Pressler
Campbell	Hatch	Roth
Chafee	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
DeWine	Kyl	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—46

Akaka	Conrad	Harkin
Baucus	Daschle	Heflin
Biden	Dodd	Hollings
Bingaman	Dorgan	Inouye
Boxer	Exon	Johnston
Bradley	Feingold	Kennedy
Breaux	Feinstein	Kerrey
Bryan	Ford	Kerry
Bumpers	Glenn	Kohl
Byrd	Graham	Lautenberg

Leahy	Murray	Rockefeller
Levin	Nunn	Sarbanes
Lieberman	Pell	Simon
Mikulski	Pryor	Wellstone
Moseley-Braun	Reid	
Moynihan	Robb	

The PRESIDING OFFICER. On this vote, the yeas are 54, and the nays are 46. Pursuant to the previous order, 60 Senators not having voted in the affirmative, the motion is rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

Mr. LOTT. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate now proceed to executive session to consider the nomination of James Dennis to be U.S. Circuit Judge.

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

NOMINATION OF JAMES L. DENNIS, OF LOUISIANA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The assistant legislative clerk read the nomination of James L. Dennis, of Louisiana, to be U.S. Circuit Judge for the Fifth Circuit.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I move to recommit the nomination to the Judiciary Committee.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Parliamentary inquiry: Does that call for immediate action, or is that a debatable motion?

The PRESIDING OFFICER. The motion to recommit is a debatable motion.

Mr. COCHRAN. Mr. President, I am prepared to describe to the Senate the reasons for my motion, and to give other Senators an opportunity to discuss this. We had undertaken to work out an agreement on the basis of time constraints allocating time for one side and the other because some did not want to set a precedent for doing the time agreement on a motion to recommit on the Executive Calendar. We have not reached that agreement in any formal way.

But, for the information of Senators, it is my expectation that there will be debate on this motion for at least 1 hour on this side in support of the motion to recommit. I expect that there will be a corresponding amount of time, or at least certainly the availability of that kind of time, on the other side. Then there would be a request for the yeas and nays on the motion to recommit the nomination. We expect to be able to get a record vote on that motion.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. COCHRAN. I am happy to yield to the Senator for a question.

Mr. BIDEN. Mr. President, I am the one who was reluctant to enter into a time agreement and/or a formal agreement on the motion to recommit. It is fully within the right of the Senator from Mississippi to do that. The reason I did not wish to do that is that it sets a precedent. As long as I have been here, I do not recall us moving to recommit a judicial nominee unanimously reported out of the Judiciary Committee.

The second point that I make to my friend is that I have no intention of doing anything to delay the vote on this motion to recommit.

I would like at the appropriate moment to explain why I believe Justice Dennis is qualified and should be confirmed and why there is no need to recommit. My colleagues from Louisiana, who have a genuine interest in this nomination, are both here, and I would look to them to speak to the qualifications of Justice Dennis and why a recommittal motion would be in effect a very bad precedent.

I wish to make it clear to my friend from Mississippi that the Senator from Delaware does not have any other agenda. I do not have any intention of slowing up a vote on this. This is a slightly different procedure from the general tradition of the Senate that when a nominee comes up from a committee the Senate debates and votes on the nominee. However, I will not object to this motion to recommit Justice Dennis because it seems to me a version of what the North in the War Between the States had hoped for for many years, that is, that two States in the heart of Dixie would fight over an issue that the rest of us think is not worthy of a fight.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. My response to the distinguished Senator from Delaware is I have no problem with his describing the committee's action. I know the chairman of the committee would probably want to do that at some point in this discussion.

Let me just say, if I can, in support of the motion that this is not a fight between two States. This is a question that is being presented to the Senate today under this motion to recommit on the basis of newly discovered information about the fitness of this judge to serve on the fifth circuit court of appeals. The motion to recommit is to give the Judiciary Committee an opportunity to review the facts, the evidence and the investigation that has just recently been concluded by the staff of the Senate Judiciary Committee, at the request of the chairman of that committee.

I have been briefed by the staff on the findings of that investigation, and I was advised at the time I was briefed that no other Senator had requested a briefing, no member of the committee had been briefed, other than the chairman had been given information from the investigators. I am convinced on the basis of what I heard that the Judiciary Committee should reconvene and reconsider the nomination.

That is the reason this motion is being made. If this were just a debate on the merits of the nominee or the fitness of this nominee on the basis of the record as already made by the Judiciary Committee—whether or not one State was being overly represented on the Court—these are all facts that we would debate at that time, and it may be a subject, a proper subject, for discussion at a later time. But this motion is directed to the fact that after the committee reported the nomination, information became available which brought into question the fitness of this judge to serve and whether or not he should have disqualified himself from participating in a case before the Louisiana Supreme Court and related matters.

That is the point we will address this morning. We hope the Senate will agree with us that this is clearly a situation where the committee ought to reconsider the nomination.

Mr. BIDEN. If the Senator will yield without losing his right to the floor——

Mr. COCHRAN. I will be happy to yield for a question.

Mr. BIDEN. The way the Judiciary Committee has operated for the roughly 20 years, I guess, that I have been on it is that the investigative staffs of the majority and minority work together and share all information. I wish to inform my friend from Mississippi that in addition to the Senator from Mississippi and the chairman of the committee, Senator HATCH, the Senator from Delaware has also been briefed on all of the investigative matters including the one to which the Senator refers.

I will be prepared and am ready to speak to that, but I will yield back. I do not have the floor. I thank my friend for his time, but assure him that I am aware the committee has been briefed. I see absolutely no need to refer this back to the committee, but I will speak to that in response to my friend's arguments.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator for his comments.

Let me just say for the purpose of putting this in some historical context that Judge James Dennis is a member of the Louisiana State Supreme Court.

He was nominated by President Clinton to serve on the U.S. Court of Appeals for the Fifth Circuit. That nomination was made during the 103d Congress, the previous Congress.

The Judiciary Committee had a hearing. At the hearing Judge Dennis appeared. No witnesses appeared other than Judge Dennis, as I am advised. There were four questions asked of Judge Dennis at that time. The committee reported his nomination to the Senate. There was no action on the nomination during the last Congress, and this year his name was resubmitted to the Senate by the President. No other hearings were held, no other inquiries were held, and he was reported out in due course to the Senate.

One day after the nomination had been reported by the Judiciary Committee, a Times-Picayune story revealed that Judge Dennis possibly committed a serious ethical violation by participating in a court decision involving Tulane tuition waivers. Tulane tuition waivers involve under Louisiana law the right of a member of the State legislature to bestow a favor on a friend by having the tuition that would otherwise be due and payable to Tulane University waived under an existing authority that goes way back to the last century in that State.

The issue was that Judge Dennis had a son who was given a judicial waiver by a member of the legislature for 2 years going to law school. Then he laid out of law school for a year, and he was going to go back to law school, and he contacted the legislator who had given him the waiver in the first instance and asked that he be reinstated. There was some question about the extent to which Judge Dennis may have been involved in contacting or trying to influence the legislator to grant that waiver for his son.

Anyway, Judge Dennis knew this story was being written. He had been contacted by the paper. He had been questioned by the reporter. Obviously, it was something that was getting a great deal of attention in the State of Louisiana.

This issue had been in the papers. There was some talk about whether this was a practice that needed to be changed, whether it was sort of a buddy system there in the State where legislators were giving friends of theirs tuition waivers. This abuse should be revisited.

Well, that is all really beside the point. The point is Judge Dennis knew he was right in the middle of this story being written, and he did not bring it to the attention of the Judiciary Committee, which was about to take action on his nomination to the second highest court in the land, the U.S. Court of Appeals for the Fifth Circuit that is based in New Orleans. There is an obligation—and I think the chairman and the distinguished ranking member of the committee will acknowledge this—there is an obligation and understanding with all nominees who come before the Judiciary Committee in situations of this kind for confirmation for a lifetime appointment to the Federal judiciary that, if they know of any circumstance or facts that would affect the consideration of the committee or the action that the committee is about to take to report out the nomination, they are obliged and under an obligation to bring such facts to the attention of the committee. Judge Dennis did not do this. There is no question in the record Judge Dennis did not do this.

There is a suggestion that Judge Dennis contacted someone in the Justice Department. I do not have a copy of any of the transcript, whether it was a letter, whether it was a fax, whether it was a phone call. I do not have the phone log or exactly what was said or to whom. But I am advised that there was contact made.

But, nonetheless, the Judiciary Committee proceeded to act without any knowledge of the fact that this issue had arisen and certainly not of the fact that it was going to be big news in Louisiana the next day, after it acted on the nomination. Judge Dennis knew that his ethics were in question and did not bring that knowledge of this to the Judiciary Committee.

The ethics of Judge Dennis were being questioned by the reporters who asked the questions. And the reason it was an issue is because the Supreme Court of Louisiana had been called upon to rule on a freedom-of-information request where a request had been filed by the newspaper asking legislators to provide records from their offices to show which citizens of Louisiana had been given these tuition waivers by them under the authority of existing Louisiana law.

Well, you can imagine some of the legislators did not want to reveal this information. They did not want to disclose the facts. Anyway, suit was filed by the paper, and that was decided in a lower court and worked its way up. It finally got up to the supreme court. Judge Dennis participated in a decision on the issue affirming a lower court decision that the paper had to make that information available.

Judge Dennis did not disclose his potential interest in this case at the time the case was decided by the Supreme Court of Louisiana. He participated in the case. He voted on the case. He did not disclose this information to the Judiciary Committee or the fact that this was an issue and a controversy in Louisiana that might be perceived as affecting his fitness to serve on the second highest court in the land.

He knew—he knew—that he had a continuing obligation to reveal any information to the committee which might affect his nomination or the committee's decision in this case. He did not call the committee to report that the story was coming out. He then knew his nomination had been voted out of the committee. There was some communication after he had been reported out of the committee and the nomination was pending here in the Senate.

The significance of this story, I think, can be best described in terms of its notoriety and its importance in Louisiana with the headline that was used by the Times-Picayune to call attention to this. As a matter of fact, it had in bold headlines: ''Hall of Shame, Public Confidence in Judge Dennis Is Destroyed.''

I think loss of confidence in a member of the judiciary, of course, affects the judicial system and not just at the fifth circuit, but throughout the country. The question that I think the committee ought to properly answer, and has not had an opportunity to address in any formal way, is: Was Judge Dennis' conduct an ethical violation? I think it was. I think it clearly rises to the level of improper conduct that would affect this committee's decision to report the nomination to the Senate.

I frankly do not believe after the committee reviews all the facts, hears all the evidence, calls witnesses who are familiar with this entire situation, I do not believe the committee is going to favorably report this nomination back to the Senate.

What I am disturbed about is that there has been pressure to call the nomination up, take action on the nomination. I do not want to personally, just because I am from a neighboring State and we have had discussions about whether this is a seat that should be filled by a Mississippian or a Louisiana person—I do not want that to cloud the real issue here, and that is the fitness of this nominee to serve on the court. That is why I have decided to move to recommit the nomination to the committee.

I am prepared to let the committee look further into this in an orderly way and in a deliberate way to determine whether my suspicions are correct, whether the suspicions of many people throughout the Louisiana-Mississippi-Texas area, where this court has jurisdiction, are correct. We have been getting phone calls and letters; people are disturbed about this. And we think that the committee ought to look further into the situation.

The Judiciary Committee ought to begin the opportunity to review its decision and either decide to report the nomination in light of this new information—I think the information reveals that Judge Dennis, first of all, failed to recuse himself properly in a case resulting in such an impropriety as to warrant public disapproval and the disapproval of the committee of his nomination.

Mr. President, I do not know what the procedure is in terms of being able to speak again, but I ask unanimous consent that I be permitted to yield the floor to other Senators who want to speak and then to speak again at some point under this motion. I do not

want to lose my right to the floor by so yielding.

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

Mr. BIDEN. Reserving the right to object.

Parliamentary inquiry. The Senator has an opportunity to regain the floor at any time under any circumstance, is that not correct?

The PRESIDING OFFICER. If the Senator from Mississippi gives up the floor, he may be rerecognized at the proper time.

Mr. COCHRAN. I do not want to violate the two-speech rule. You cannot under the rules of the Senate make two speeches on one legislative day. Is it because we are in executive session that the legislative day two-speech rule does not apply, I ask the Chair?

The PRESIDING OFFICER. If the Senator wants to waive the two-speech rule, he can do that affirmatively without keeping the floor. You can make the unanimous consent request at this time, or——

Mr. COCHRAN. That is why I made the request.

Mr. BIDEN. I have no objection.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. BIDEN. Mr. President, I love to hear the Senator speak. If the two-speech rule applied to this place, I imagine we would have only one or two Senators who ever spoke. I will be delighted to hear him again.

I would like to make several points to him, and I will not take long. I would like to ask him a question, if I may.

If I may ask the Senator from Mississippi, is it his—I realize there is no unanimous consent in any of this—but just as he postulated what he hoped would happen in terms of procedure here this afternoon, is it the Senator's intention that, if his motion to recommit fails, that we would go then to a vote up or down on the nominee?

Mr. COCHRAN. I have no objection to proceeding to voting on the nomination. As I understand it, though, it would be subject to debate.

Mr. BIDEN. No. It would.

Mr. COCHRAN. I do not want to foreclose any Senator's right by any agreement like that. My personal inclination would be to proceed to vote in due course whenever Senators—if they want to talk about it, they could, but there is no agreement to proceed to a vote at that time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I know there is no agreement. What I am asking, does the Senator know of anyone who would have an interest in not allowing us to get to a vote today?

Mr. COCHRAN. If the Senator would yield. I know Senators are interested in this subject. Two or three have come up to me and said, ''You are not going to let this proceed to a final vote today if this motion is defeated?'' I said, ''I am not going to stand in the way of that. But if you want to speak you can. You have the right to do that.'' So I do not know what other Senators may do. I do not intend to filibuster the nomination, I say to my friend.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me make a few points before I respond to the specific concerns of the Senator from Mississippi. One, it is true that, to the best of my knowledge, only myself and Senator HATCH have availed ourselves of the investigative report done by minority and majority staff on the question that has been raised by the Senator from Mississippi.

Senator HATCH notified all Republican members on the committee, which is our practice, that follow-up work was conducted on a matter that had come up after we had voted and that professional staff who had done the investigation were there, ready, willing and able to brief people on it. My staff briefed the staffs of the Democratic members of the committee.

I will tell you why most people did not think it was so important. Justice Dennis has been around for a long time. His nomination came up in 1994. There has been, and I am not questioning the motivation of my friend from Mississippi, but let me put it this way, he has not been fast tracked. He has not moved very swiftly. The Senator from Delaware may be under the mistaken impression that the failure to move Justice Dennis had little to do with Justice Dennis' integrity, competence and/or forthrightness and ability to be on the bench, but had to do with a legitimate dispute—I guess any dispute between and amongst States is legitimate—about whose seat this should be.

It happens all the time. It happens in the first circuit, it happens in the second circuit, it happens in the third circuit. We had a debate in the third circuit about whether or not a seat should be a Pennsylvania vacancy or a New Jersey vacancy. I am not saying this only happens in the South. It happens all across the country, and Senators fight very hard for the prerogatives of their States to have folks represented on the circuit courts in numbers that they believe are appropriate.

That has, up to now at least, been the major impediment, at least from the perspective of the Senator from Delaware, of Justice Dennis getting a vote on the floor of the Senate.

Having said that, let me speak specifically to the question raised by my friend from Mississippi.

It has been argued that Justice Dennis should have recused himself from a case that came before the Louisiana Supreme Court involving a suit by a local newspaper against five State legislators.

Under Louisiana law, a judge may be recused for five reasons. I might point out that the Federal rules of recusal, and most State rules of recusal, are not designed to encourage judges to recuse themselves automatically. Otherwise, judges would be able to avoid all the tough decisions. So the presumption is that you should not recuse unless you meet a certain standard.

Let me tell you what Louisiana law says, because that is the law that Justice Dennis, then on the Louisiana Supreme Court, was obliged under his oath of office to follow.

Here are the five reasons for which a Louisiana judge may recuse himself or herself: First, he or she is a material witness in the cause of action before him or her; second, he has been employed or consulted as an attorney in the cause of action prior to being on the bench; third, he has performed a judicial act in the cause of action in another court; fourth, he is related to one of the parties involved in the suit; or fifth, and this is the important piece here, he has an interest in the cause.

My friend from Mississippi is making the case that Justice Dennis should have recused himself because of the fifth provision in Louisiana law—that Justice Dennis had an interest in the case before him. Only this last reason—where a judge is interested in the case—could possibly provide grounds for Justice Dennis to recuse himself from the Times-Picayune case. As the nominee explained to the committee, he had absolutely no interest in the case brought by the Times-Picayune.

Let me go through the facts, because I think it is very important to know what the specific facts are.

For over a century, since 1884, each Louisiana State legislator has had the right to nominate a Louisiana citizen to receive free tuition to Tulane University for 1 year. I might note parenthetically, that this is not something in the last several decades that the press has thought is a good thing.

To the best of my knowledge, and I am certainly not a historian or student of Louisiana history, no one questioned this practice for a long time. Along comes the Times-Picayune, which is their right, and they wanted to know who had appointed whom to Tulane University under this 1884 law.

Again, no one is questioning whether or not the law of Louisiana permitted a State legislator to nominate a Louisiana citizen to receive free tuition to Tulane University for 1 year. These tuition waivers are, under Louisiana law, as we understand it, privately funded.

In 1985, Justice Dennis' son—now, this is 1985, 10 years ago—Steve Dennis, received a tuition waiver from his legislator, a gentleman named Representative Jones. At that time, Justice Dennis' son, Steven, was a 26-year-old married man, financially independent of his father, and living apart from his father.

And, I might add, he lived in Representative Jones' district. Now, Steve Dennis received tuition waivers to attend Tulane law school in the years

1985, 1986 and 1988. He did not attend law school during the 1987–88 academic year.

In December 1993, 8 years after Steve Dennis was first nominated to receive this tuition waiver by his State legislator, the Times-Picayune and one of its reporters sued five legislators for failure to turn over copies of forms they used to nominate people for tuition waivers. The five legislators sued were: Emile ''Peppi'' Bruneau, Jr., Naomi White-Warren Farve, Garey J. Forster, Arthur A. Morell, Edwin Murray.

The reason I mention their names is that Representative Jones—the person who had nominated Steve Dennis—was not sued. He was not a party. He was not asked to submit the names of people he had, in fact, nominated to receive the tuition waiver.

There were two issues involved in this case brought by the Times-Picayune. First, the plaintiffs sought a declaration that the nomination forms of these five legislators were public documents, even if the forms were currently held by Tulane. Second, the plaintiffs sought a writ of mandamus ordering each defendant to produce all nomination forms in his or her custody, including those held by Tulane.

Now, in January 1994, the trial court, of which Justice Dennis was not a member, determined that the nomination forms were public and granted the writ of mandamus ordering the defendants, the five State representatives, to produce all the documents and forms held by them or Tulane. The trial court also awarded attorney's fees to the plaintiffs.

The legislators then appealed from the trial court. In October 1994, the State fourth circuit court of appeals—not the Federal circuit court of appeals—agreed that the nomination forms were public documents subject to disclosure. However, finding no indication that the defendants would not comply with the court's declaratory judgment, the court of appeal reversed the grant of the writ of mandamus against the defendants. The court felt that it was premature to subject the five legislators to mandamus, given that its declaratory judgment was the first definitive statement of the rights of the parties. The court of appeal also reversed the attorney's fee award.

Finally, the case came before the Supreme Court of the State of Louisiana. Enter Justice Dennis. There were only two issues that came up to the Supreme Court. One, whether a mandamus was appropriate, and, two, whether the plaintiffs should receive attorney's fees. It was no longer an issue as to whether the nomination forms were public documents. That was settled. That was not even appealed. The fourth circuit had already established that they were, and that the defendant legislators would have to turn over these documents to the Times-Picayune.

Now, in a 6–1 decision in which Justice Dennis was with the majority, the Louisiana Supreme Court denied the Times-Picayune application for review and refused to consider the untimely application of one defendant who challenged the newspaper's standing.

Remember what is being laid out, the predicate: That Justice Dennis committed some big ethical violation, and he did not tell the committee about it, either. First, he was hiding something from us, the Judiciary Committee, and, second, he was hiding it because it was unethical behavior.

I might add, I doubt whether there is a member of either party who would be willing to let his or her reputation be ultimately written in the great book based on only the headlines he or she has received throughout his or her life. I doubt whether there is a single, solitary person who holds public office who has not spoken to an editor and heard the editor say, ''I am sorry, BENNETT, but I don't write the headlines.'' ''I am sorry, THAD, but I don't write the headlines.'' What my good friend from Mississippi read was a headline from the Times-Picayune which I do not know means anything, except it is unintentionally, in my view, misleading about the character of Justice Dennis.

Now, it is the Louisiana Supreme Court decision from which some argue that Justice Dennis should have recused himself. As I said earlier, under Louisiana statute, there is only one possible reason why Justice Dennis, may have recused himself—and that is because he had an interest in the case.

Justice Dennis, through written and oral statements to our staff, gave three reasons why he determined that there were no grounds under which he should recuse himself.

One, he had absolutely no interest in the outcome of the only issues before the court. The only issues before the court were the writ of mandamus and attorney's fees. He had absolutely no interest in that at all or in the petition by a latecomer saying that the Times-Picayune had no standing.

Second, his son had no interest in the case's outcome. His son was long out of law school. His son was a married man, 26 years old, living on his own in the district of a legislator who was not named in the lawsuit. What possible interest could his son have had in the outcome of this case?

The third point Justice Dennis makes is that Representative Jones, who nominated Steve Dennis for the tuition waiver, did not have an interest in the outcome of the case.

Let me review each of these reasons and then I will sit down. First of all, Justice Dennis had no interest in the outcome of the issues before the court. He had no relationship to either party, the newspaper or any of the five legislators.

Second, Justice Dennis' son had no interest in the outcome of the case. Steve Dennis was first nominated for a tuition waiver by a Monroe legislator in 1985, 8 years before the suit was filed and 10 years before it came to the Louisiana court. Steve Dennis had no interest in the Times-Picayune application before the State supreme court because the public record status of the nomination forms had already been resolved. The fact that they were public documents meant anybody could go and find out whether or not in 1985 Steve Dennis had been nominated by Representative Jones.

Further, Steve Dennis had no interest or stake in the remaining issues: The mandamus order for the defendants to turn over the documents or the attorney's fees awarded to plaintiffs.

Last, Justice Dennis did not recuse himself because the Monroe legislator who nominated his son had no interest in the outcome of the case. Representative Jones was not a party to the case. He was not subject to the writ of mandamus or the award of attorney's fees.

The supreme court's denial of the Times-Picayune writ application was simply a decision not to review the mandamus and attorney's fees issues any further. The court did not decide any question of law or fact. It established no supreme court precedent that could affect future cases. Nor did the rejection by the court of appeal of the Times-Picayune suit for attorney's fees and mandamus establish any precedent that would have provided grounds for nondisclosure by the Representative Jones, or any other nonparty.

Once the court of appeal decision became definitive on March 17, 1995, no custodian of a tuition waiver nomination form could claim that the law was unclear as to whether there was a clear duty to disclose the nomination records. If the custodian refused to respond favorably to a request by an adult person for the records, he or she was subject to mandamus and attorney's fees awards against him.

Justice Dennis has explained clearly why he did not recuse himself in this particular case. He made a thoughtful and reasoned decision, after taking all the facts into consideration. And his record shows that he does not have a blithe disregard for Louisiana's recusal law. In fact, there were two cases in which Representative Jones was a party, and from which Justice Dennis did recuse himself. Both cases were bar disciplinary matters against Representative Jones that came before the Louisiana Supreme Court under its original jurisdiction over proceedings relating to disciplinary matters.

Mr. COCHRAN. Will the Senator yield for a question on the point of what was at issue in the case before the supreme court? Just a question.

Mr. BIDEN. Surely, I will be happy to.

Mr. COCHRAN. One question I have that has not been brought out here was that this suit not only requested a ruling as to these five legislators, but, more important, with respect to Judge Dennis, it involved all legislators' records, as to whether or not they were public records. And the reason this is important as far as Judge Dennis is concerned—and did the committee

know this?—that he was a legislator before he was a judge, and he had awarded scholarships to Tulane and therefore records that he had control over, under the ruling of the lower court, made him a party in interest even though he was not a named defendant?

Mr. BIDEN. If I can respond to my friend, the factual statement he made about Justice Dennis having been a legislator, that this affected all legislators, and the writ of mandamus would have affected all legislators, is absolutely accurate except for one big problem. That issue was not before the supreme court on which Justice Dennis sat.

Mr. COCHRAN. It was if they did not overrule the fourth circuit. The fourth circuit had reversed the lower court. The lower court ruled that was public property and that all legislators had control over the files that were held by Tulane. And the Tulane custodian of records, Carolyn LaBlaime, testified in the lower court that, on the request of legislators, she and Tulane would make those records available. So the question was whether all legislators would have this responsibility.

Mr. BIDEN. If I may respond to my friend, he is again partially correct. That was the issue in the lower court. That was the issue in the court of appeal. But that was not an issue which was appealed to the Louisiana Supreme Court. The supreme court did not speak to, nor was it asked to rule on, or affirm or overrule the question of whether or not these were public records.

Mr. COCHRAN. Mr. President, will the Senator answer one other question?

Mr. BIDEN. Certainly.

Mr. COCHRAN. I do not want to delay this inordinately. I think there is a question that ought to be clarified; that is, at the point when the case reached the supreme court, none of those legislators, except one, had voluntarily requested Tulane to release the information they had regarding the appointments that legislator made to the scholarship privilege at Tulane. That was Peppi Bruneau. The others—even though the court had ruled at the district court level, and the fifth and the fourth circuit, the intermediate court had confirmed were public records—none of them had acted to respond to the Times-Picayune request. And, as a matter of fact, is not it true that it was only after all of these cases had been acted on did the paper realize they had won the case but they still did not have the records, and they had to sue again to compel delivery of the records? They had to sue Tulane because none of the legislators, including Judge Dennis or any of his colleagues who had given out these scholarships, had asked for the records.

So the point is Judge Dennis, in my view, certainly, had an interest in whether he acted on it in deciding the case and the ruling. He did not disclose the interest, but he went on and acted on it nonetheless. It seems to me—does it not seem to the Senator from Delaware—that would be a proper inquiry for the Judiciary Committee to make.

Mr. BIDEN. Mr. President, if I can respond, we did make that inquiry and reached a totally different conclusion than the Senator from Mississippi. Again, let me make clear why.

First, there was no question. The records were public documents. The issue was whether a mandamus should be issued.

Second, the fact that only one of the five legislators, turned over these records further underscores the point that they were the only five people involved in this matter. No one was asking for, in this court, case records from any other legislator.

Third, the question that the intermediate court responded to differently than the upper court was whether or not the vehicle to get these records from Tulane would be a writ of mandamus or a lawsuit. That was the issue; not just how do you get the records. And that issue did not go to whether or not they would have to be produced, but when and under what legal document would they have to be produced. And on that score, Justice Dennis affirmed the intermediate court's ruling along with five other justices.

Mr. COCHRAN. Mr. President, will the Senator yield for one more question?

Mr. BIDEN. I would be happy to. But let me finish this point.

I respectfully suggest, if the Senator looks at what the law says, what the court had said and what was before Judge Dennis, the matter that concerns him most, as it should, was resolved.

Mr. COCHRAN. Mr. President, if the distinguished Senator will yield, the distinguished Senator said that the committee had looked into this issue and had come to a conclusion different from the one I came to.

Mr. BIDEN. Correct.

Mr. COCHRAN. How could you have done that if the information about this nomination to Tulane and the scholarships did not come to the attention of anybody until the day after the Judiciary Committee reported the nomination to the Senate?

Mr. BIDEN. Mr. President, that is a legitimate question. Let me respond to that—the way we do in every such case. The standard operating procedure is, if we get something that even has the potential color of conflict, the majority and the minority get together. The standard procedure is they go back and investigate. Sometimes we call the FBI back in. ''Would you take a look at this? Is it specious? Is there anything to it? Is it real or not real?''

Staff may also call the person making the allegation. And the staff makes a judgment as to whether it is specious, whether it warrants further investigation, or whether or not they have enough information to make a recommendation to the committee.

The third thing we may do is call the nominee. We call the nominee and say, ''OK, look. This was raised. Here is the deal. These are the facts as we know them. Explain yourself.''

That is what we did here. The explanation was given. The nominee wrote a letter to the committee and he was interviewed by staff. We read the briefs that were filed and the newspaper accounts.

The staff concluded that Judge Dennis made the right decision, that he did nothing unethical.

Mr. COCHRAN. Mr. President, will the Senator yield for a question?

Mr. BIDEN. Yes.

Mr. COCHRAN. I think the staff has now concluded in another way. I do not know whether there is any evidence that the Senator can give the Senate about what the staff has concluded. But in today's Times-Picayune, there is a statement from a reporter who called and talked with staff members of the Judiciary Committee.

And it says, ''At issue is Dennis' vote in a 6-to-1 Supreme Court decision in March to deny'' the newspaper's ''request for access to the . . . forms.'' And it says one staff member says that there was nothing new discovered. Another says there are questions raised about whether he should have recused himself.

So the paper has discovered that committee staff has a difference of opinion. I was briefed and I can say that my impression was there is a serious question and that is why this motion is being made.

Mr. BIDEN. Let me respond to the Senator, if I may. I have not seen today's Times-Picayune. However, it is not unusual for staff, as well as Member of the Senate, to have different perceptions of a given situation but I am not sure that is relevant.

Let me explain the procedure. What happens is the majority staff goes to a gentleman named Manus Cooney, who has been on the staff for a long time, first-rate lawyer. He goes and speaks to the chairman of the committee. Karen Robb, a seasoned lawyer, who has been here a long time, comes to me and says now this is what the facts reveal. I then ask what I expect Orrin also asks: What do you think? My staff shows me the information. I look at it, and I say I think there is nothing here.

The next step in the procedure is to make this information available to committee members directly or through staff. Again, this is standard operating procedure. And I am the one who as chairman initiated this rule. ORRIN has followed the precedent—whatever investigative information we have, from the FBI, from any source, where there is any question raised. We notify members of the committee, and we say, hey, folks, there was a new issue raised or an old issue reraised. We have looked at it. If you want to know about it, come here, look at the information.

A lot of this information is FBI-related material on which we only brief

Senators. And a lot of it is non-FBI material, like this on which we brief staff. This is all non-FBI stuff here. It's not confidential.

And so I say to my friend there is nothing unusual about this case. There has not been a single time since I have been on this committee that I can think of where we have not voted somebody out and after having voted on it received new information. The most celebrated case? A Supreme Court nominee.

Were we to reopen a full committee hearing and a full committee vote every single time after we voted anybody raised an allegation, we would effectively shut down the nominating process. Every single time, if we had to reopen a hearing, have a new public hearing and have a vote, we, the Democrats, would effectively be able to keep nominees from being on the bench. And the Republicans could do the same. It is just not a way we could possibly operate. Now, let me say one other point. If, for example, we came forward and the information received after we voted we believed was of such a consequence, Senator HATCH and I, or any member of the committee, that it warranted further hearings, we would have them. Case in point: a Supreme Court nomination.

They have to be issues where the staff, Senators, or the ranking member and chairperson, somebody says, ''This is a big problem. We better take a look at this thing.'' Nobody said that here because nobody that I am aware of believes that here. So that is why we did not open up a new hearing.

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

Mr. BIDEN. I will yield for a question.

Mr. COCHRAN. If a member, who is a senior member, of the Judiciary Committee staff tells a Senator like I was told during the briefing on this issue that if the committee had had the information that came to light after the nomination had been reported, the committee would not have reported the nomination, does that not seem to the Senator to be sufficient grounds to request reconsideration of the issue by the committee?

Mr. BIDEN. The answer is no, if in fact the chairman of the committee, the ranking member of the committee and other members who had that information made available to them did not reach that conclusion.

I am confident that I could find in the Agriculture Committee, in every other committee here, a staff member who would say after we voted something out, if they knew all of that information they probably would not have voted that way. If we operate with that as the basis for whether or not it is worthy to refer back to a committee a nomination or a piece of legislation, we are not going to get very far.

Again, I am not in any way—please let my colleague understand and the record show—I am not in any way questioning the motivation of my colleague from Mississippi. What I am suggesting is that a close look at the facts and the law makes an overwhelming and compelling case that Justice Dennis did exactly the right thing when he concluded that there was no need to recuse himself.

I see my other friend from Mississippi and my two colleagues from Louisiana, who are very interested in this, are here. I will be available if they want to ask me any more questions.

So I will in the meantime yield the floor and stand ready to answer questions if anybody has them.

Mr. JOHNSTON. Mr. President, I have looked into this matter in great detail, and I think the Senator from Delaware is exactly correct. I have read the decisions and read the letters. I think he is exactly correct. I must say that it is a very fine legal point. Even with what my friend from Mississippi said, it is hardly the kind of matter that is so serious as to deny a person a role on the court.

The question of whether or not this issue was really at issue before the supreme court—it had not been appealed on actually what we call a writ of certiorari. So this question was not really before the supreme court. What was really before the supreme court was whether the Times-Picayune was entitled to its attorney's fees and whether or not the writ of mandamus was premature.

But, Mr. President, I daresay, if we gave our colleagues a pop quiz on this question nobody, save those at least on the floor, could answer the question, it is such a complicated legal matter.

Suffice it to say the matter has been, I believe, effectively and thoroughly decided by the Judiciary Committee. This matter was pending for a long time. I really do not think that is the real issue behind whether Judge Dennis ought to be on the fifth circuit.

Mr. President, the real question is should Judge Jim Dennis be on the circuit court of appeals? Mr. President, I have known him for over 30 years. We served in the State legislature together. He is one of the most distinguished jurists the State of Louisiana has ever produced. His life has been marked by excellence in everything he has done. In law school, he was in the Order of the Coif; that is, a top scholar. He was on the Law Review, again a top scholar.

He was in the State legislature, where he made an outstanding record. He has been on the bench in every level—the district court, the court of appeals, and the supreme court—for many years. He is one of those gifted legal scholars who can write things in ways that are clear and he can marshal up the English language and make it march, as someone said about Winston Churchill. He is that good, and recognized as such. He is a great favorite of both the bench and the bar in Louisiana. Mr. President, he would be an enormously popular judge.

Now, he has certainly come within the cross hairs of the Times-Picayune, no doubt. I must say, he is in very good company in that, Mr. President. You see, Paul Tulane, when he made his bequest to Tulane University, went to the legislature and said, ''We want people from every parish in the State. And we want a little financial help. Will you pass a law that says legislators are entitled to name people to Tulane tuition free?''

The legislature passed that law over 100 years ago. For over 100 years, it was in place in Louisiana and never questioned. I think my colleague said for 80 or 90 years. No, it was for over 100 years. But it has to be a real hot issue with the Times-Picayune. They have gotten Members of Congress in both Houses, in both parties—some of my colleagues on the other side of the aisle and in the other party are also in these cross hairs—and a former Republican Governor, one of the most honest and best we ever had, in my view. I liked him a whole lot. All of you know him and served with him. He is one of those in the cross hairs. Also a State treasurer and State legislators of both parties. I submit to you not all those folks are ethically deficient. That was a legal, ethical, proper thing. That is really what is involved.

The Times-Picayune, though, has a great story, and they are pursuing it. This judge ruled against them, denied them attorney's fees. I do not know whether that has anything to do with it, but I will tell you one thing: If this were an opinion, rather than a newspaper story, they would certainly be recused because they certainly had an interest in this matter.

Be that as it may, Mr. President, this is a good judge. He is a good man.

This is a complicated legal question. The staff has looked at it, majority and minority. Look, it is not something where JOE BIDEN is our Democratic head of this thing, and sort of squelched this matter. That is not it at all, Mr. President. That is not it at all.

This is a good man. He is not ethically deficient, I can guarantee you that. He ought to be confirmed to the fifth circuit. He deserves it.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT], is recognized.

Mr. LOTT. Mr. President, I will rise in support of the motion to recommit the nomination of Justice James Dennis to be a member of the Fifth Circuit Court of Appeals back to the Judiciary Committee for further review. And I also am going to go ahead at this time and express my opposition to Judge Dennis for other reasons. I think clearly this nomination has not been sufficiently and properly reviewed by the Judiciary Committee.

There has been information that has been revealed since that nomination was approved by the Judiciary Committee back in July that has not been reviewed by the full committee, by many members of the committee.

As a matter of fact, I understand from what was said a few moments ago, that while the Senator from Delaware reviewed the accusations with regard to the Tulane matter, and perhaps the chairman of the committee, Senator HATCH of Utah, reviewed it, as a matter of fact, what happened after this information was given to the Judiciary Committee, I understand, is the staff sent a letter to Judge Dennis asking him to respond. Then there was a conversation by telephone regarding the allegations here without ever actually having an opportunity to interview him in person.

He did not come back before the committee. And, as a matter of fact, the staff members on the two sides of the committee do not agree on what we should have done or how this matter was handled by Judge Dennis.

So I do think there is very good reason to recommit this nomination. Before I talk about the specifics of the case, I want to take note that even the Judiciary Committee, I think, perhaps gave this nomination only cursory consideration. When the hearings were held, only five questions were asked of this nominee, and only one member asked the questions.

So I really would have thought since there have been questions raised about this nominee almost from the beginning—in fact, I think from the beginning—that there would have been a fuller hearing and more questions would have been asked. And the questions certainly did not go into much probing detail. So I think just on that basis there is justification to ask the Judiciary Committee to review the matter further.

The committee staff that conducted the investigation in this case, as I understand it, determined that Judge Dennis should have recused himself in this matter. Now, at least on the majority side, that is the information I received. So maybe there is disagreement by the staff on the other side. But I wonder, when you have staff coming to that conclusion that he should have recused himself in this case involving Tulane University and the scholarships, should not the full committee have reviewed their recommendation?

This matter was reported by the Judiciary Committee on July 20, 1995. It was 3 days later that this matter appeared in the Times-Picayune. I believe Senator COCHRAN has already asked that this be printed in the RECORD. He has not.

I ask unanimous consent that the Times-Picayune article of Thursday, July 23, be printed in the RECORD.

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

[From the Times-Picayune, July 23, 1995]

JUDGE DEFENDS HIS TULANE RECORDS VOTE

(By Tyler Bridges)

State Supreme Court Justice James Dennis, whose son received Tulane tuition waivers, later voted to deny a request by The Times-Picayune for review of a lower court decision in the newspaper's suit seeking access to five New Orleans legislators' Tulane scholarship nomination forms.

The newspaper eventually received the scholarship nomination forms of all Louisiana legislators by filing a subsequent lawsuit against Tulane.

The records obtained from that suit show that Stephen Dennis was awarded Tulane tuition waivers for three years in the late 1980s by then-state Rep. Charles D. Jones, D–Monroe.

An associate justice of the Louisiana Supreme Court since 1975, James Dennis last year was nominated to a federal judgeship by President Clinton. That nomination, to the 5th Circuit Court of Appeals, was approved by the Senate Judiciary Committee Thursday night and now goes to the Senate floor. Dennis, however, continues to face strong opposition from Mississippi's two senators, who argue that an appointee from their state deserves the judgeship and that Dennis is soft on crime. The appeals court hears cases from Texas, Louisiana and Mississippi.

Prior to his election to the Louisiana Supreme Court, Dennis, 59, a native of Monroe, was a state district judge, an appellate judge, and a state representative.

The Tulane scholarship that Dennis' son received is awarded under a century-old program that permits every legislator to award a tuition waiver every year.

Jones, now a state senator, declined to explain why he nominated Stephen Dennis.

In a written statement to the newspaper, Dennis said that his son in 1985 had sought the scholarship on his own, ''without my suggestion or help . . . At that time, Steve was 26 years old, married, and a resident of (Jones') district. He and his wife were struggling but fully self-supporting and financially independent of me. I was unable to assist Steve in going to law school because of my obligations of support owed to my wife and three younger children. I did not ask (Jones) to nominate Steve for the waiver. I believe that the nomination was made on the basis of Steve's academic record, his financial need of educational assistance and his outstanding extracurricular and other achievements.''

Dennis in March 1995 voted in the majority of a 6–1 decision to deny The Times-Picayune's request that the Supreme Court review an appeals court ruling in the newspaper's suit against the New Orleans legislators.

In a written statement to the newspaper, Dennis said the case did not pose a conflict of interest for him because the appeals court already had upheld The Times-Picayune's primary contention that the nominating forms were a public record. Dennis said further review of the ''collateral issues'' raised by The Times-Picayune's request for review was not warranted.

While the appeals court upheld the newspaper's position that the forms were public records, it also had ruled that legislators were not required to get their scholarship nomination forms from Tulane if they did not have the forms in their possession. This issue was important to the newspaper because numerous legislators had declined to identify their recipients, no longer held the forms themselves and had declined to get the forms from Tulane. In fact, even after the appeals court ruling, four of the five defendants refused to obtain their forms from Tulane and make them public.

''I did not have any interest in the outcome of the only issues to come before the Supreme Court,'' Dennis wrote the newspaper. He would not answer questions beyond his written statement.

Under the Louisiana Code of Civil Procedure, a judge may recuse himself when he ''is biased, prejudiced or interested in the cause or its outcome or biased or prejudiced toward or against the parties . . . to such an extent that he would be unable to conduct fair and impartial proceedings.''

After the Supreme Court denied The Times-Picayune's request for review, the newspaper filed suit to force Tulane to release the scholarship nomination forms of all Louisiana legislators. Civil District Judge Gerald Fedoroff ruled in the newspaper's favor in June, and Tulane released the records this month.

Mr. LOTT. Mr. President, so it was 3 days after the committee had acted when this whole issue started coming to the forefront and questions were being raised about Judge Dennis and his involvement in that ruling on the Louisiana Supreme Court.

Clearly, while you can argue that it came to the supreme court in a very narrow way, I think clearly this is a question of judgment. That is very key here. We are fixing to put a nominee on the Fifth Circuit Court of Appeals, a Federal court, for life, and a nominee's judgment is very critical in whether we vote for or against him.

He knew about the practice in Tulane. He knew about the Times-Picayune investigation. He had, in fact, participated in this process. I do not judge it, prejudge it, or condemn it. I know it went on. What was really involved here was a decision about whether or not this information should be made available, as I understand it. Clearly, he had had an involvement as a legislator and his son had been involved. It appears to me judgment would have dictated that he would have recused himself.

As a matter of fact, the Louisiana rules of court, canon 2 says:

> A judge should avoid impropriety and the appearance of impropriety in all activities.

Surely there was at least an appearance of impropriety in this matter.

I have experienced some unusual things with regard to this judge. In the 7 years I have been in the Senate, this is, I think, maybe only the second time I have spoken against a judge, the only time where I have gotten into it to the degree that I have on this one. So it is unusual for me, and I do not take great pleasure in it. I am sure he is a fine man with a good education. Obviously, he is a good friend of the senior Senator from Louisiana and Senator BREAUX from Louisiana. They are both outstanding Senators and good personal friends. I do not take any pleasure in raising questions about a judge that they are recommending. There is nothing personal involved with them. In fact, I will always bend over to try to be cooperative with these two fine Senators.

But in this case, I think there are many reasons why this nomination should be recommitted to the committee and, furthermore, why this judge should not be approved for the Fifth Circuit Court of Appeals.

The second thing that is unusual about this one is I have been inundated with correspondence from people in

Louisiana from all stations in life saying that this nominee should not be confirmed—small business men and women, executives of corporations in Louisiana, just private citizens, prosecutors. We have a file that is probably 6 inches thick of letters from people raising questions about the qualification of this nominee.

I have been struck by that. I started off, quite honestly, being opposed to this nominee because it did damage to the proper balance on the Fifth Circuit Court of Appeals. But as I got into the merits, or demerits, of this nomination, I found that there were a lot of questions that surrounded this nominee.

I am just going to read some of the excerpts from some of the letters I received. One says:

> As a Justice on the Louisiana Supreme Court he has been notorious for writing law from the bench. His actions have had a serious negative impact on the Louisiana economy.

This is a person who apparently is in the printing business.

Another one from the Louisiana Association of Business and Industry. Just one sentence from this letter:

> In the area of expansion of government, taxation and tort law, he is far out of touch with both legislative intent and the sentiments of most Louisiana citizens.

From a college official, it says:

> Judge Dennis is an enemy of not only small business, but Louisiana's workman's compensation program.

From an attorney:

> Justice Dennis is the type of judge who is not content with following and applying the law to the facts of the case before him. Rather, he is the kind of judge who desires to bring about a specific result, and then conjures up dubious theories of law to reach that result. Justice Dennis is not the kind of judge who hesitates to ''make law'' when existing law does not suit his philosophy.

I think one of the most striking things came from an assistant district attorney in Louisiana who has had, obviously, a great deal of experience in criminal law practice in Louisiana. His letter was lengthy and gave example after example, citing specific cases where this is a judge that he felt should not be moved to a higher court. I will read two paragraphs from his letter:

> I have been a violent crimes prosecutor for the past 20 years, beginning as an assistant district attorney in Baton Rouge, Louisiana, in 1974. Also for 2 years, I was dispatched all over our State prosecuting as an assistant attorney general. For the last 12 years, I have been the chief felony prosecutor in the rural but large parish of St. Landry, which lies between Baton Rouge and Lafayette. I wholeheartedly agree with statements that I have seen ascribed to you that James Dennis ''has a record of court activism inconsistent with the views of the majority.'' He has consistently crafted judicial decisions, while intellectually forceful, that are wrongheaded and unresponsive to the crime problems from which our communities are suffering.

So you see, this is not just a matter of a disagreement whether this judge should be from Mississippi or from Louisiana, and this is not a case where I have gotten a lot of mail from my own State about this judge. This is a case where I have been flooded with letters and calls and correspondence from elected officials, of people throughout Louisiana in all walks of life saying this nominee should not be confirmed.

One other thing before I go to this next part. Just a couple of weeks ago, I had another call from a State official who raised questions about another court action involving gaming versus gambling. I have submitted this material to the Judiciary Committee staff. I do not know whether it is a serious matter or not, but when a State official calls and says this is something the Judiciary Committee should consider, I think they should take a look at it. Maybe they have at the staff level. There is clearly enough question here surrounding this nomination that the committee should take another look at it.

Let me go to these other points that I think I must make. I generally err on the side of giving the President the benefit of the doubt on nominations in his administration. I think Presidents should have great latitude in selecting individuals for service in their administration, including Federal judicial appointments, especially the circuit courts. So barring character flaws or illegality or extreme policy positions which are inconsistent with American values, I generally am inclined to go along with him. But in this case, I do think there are some questions about character and judgment, and I think clearly some of the policy positions here are out of order.

After reviewing this nominee and his rulings, I reached two conclusions: He is clearly a judicial activist predisposed to create law from the bench instead of interpret it, and, second, his rulings fail to support severe and harsh punishment for convictions for violent and wanton criminal acts.

Last, I do not believe the nomination of Judge Dennis is fair or appropriate given the makeup of the Fifth Circuit Court of Appeals. The fact of the matter is, this position is vacant because the chief judge retired, Judge Charles Clark from Mississippi, and has been vacant since then.

If a Mississippian is not appointed to this position, our State will have only two members on the Fifth Circuit Court of Appeals, not nearly enough to try to stop a circuit court of appeals nomination. But this is a question that is affecting Senators and the circuit courts all over this country. I hear—and I believe this is true—a growing concern about disparity in the various circuits. So I think this is a question that should be reviewed by the Judiciary Committee. I know that several of the members of the committee were concerned about that and came to me and asked questions about it. I acknowledge that that alone certainly is not enough to oppose this nomination. But as a Senator from my State, I do have to put on the record the fact that I think that our State is not going to be properly represented in this circuit court.

So I invite Senators from other circuits in other States to be aware that if this pattern begins to develop, we will get to a situation where the big States—California, Texas, or New York—will not only have the margin of the majority, but dominate or have total control of these circuits. I think that we need to think about that.

Now, I want to cite my biggest concern, and that is the way this supreme court judge has been ruling. I think that is the real reason why he should not have been confirmed. Over the last several months, I have reviewed many of Justice Dennis' writings and opinions issued by the Supreme Court of Louisiana.

In two areas, I am particularly concerned with the views of this nominee. I urge my colleagues to take a look at his rulings on crime matters and on business. There is no question that James Dennis is intellectually a bright jurist, and you will see it in his opinions. They are very interesting in the way they are written. However, the intellectual energy he devotes to the law fails to lead to consistent rulings of justice and compassion for the victims of crime. You do not need to look far to see that when it comes to ruling on violent crimes, Judge Dennis is not the victims' judge.

So I would like to cite some of the cases that I think are really important.

At 5 a.m. on July 2, 1977, the defendant, Dalton Prejean, and three other people left a nightclub in a stolen 1966 Chevrolet. They had been drinking heavily for the entire evening in Lafayette Parish, LA. Prejean was driving. The vehicle was stopped by State Trooper Donald Cleveland—the car's taillights were not working.

Prejean, who was driving without a license, attempted to switch places with an occupant in the front seat. Trooper Cleveland saw the driver attempt to switch places and ordered the driver out of the car. Dalton Prejean emerged from the car with a .38 caliber revolver and shot Trooper Cleveland twice. Trooper Cleveland later died from his wounds.

Prejean was convicted of first-degree murder in the Fourth District Court of Louisiana and was sentenced to death. Prejean appealed on four issues, including his claim that he was due a new trial because one juror had failed to disclose his relationship with law enforcement officers on the voir dire. Justice Dennis dissented from the court's refusal to grant a rehearing, arguing that a ''proportionality rule'' should be applied. That is, Judge Dennis argued that before the death penalty should be imposed on the defendant, the sentence should be compared to sentences in all similar cases throughout the State of Louisiana. The

intellectual foundation of Judge Dennis' argument was found not to be proper and it was reversed.

The U.S. Supreme Court has repeatedly affirmed the use of the death penalty, and the U.S. Congress has repeatedly voted to support the death penalty, particularly on crimes of wanton and reckless violence, particularly against law enforcement officers.

So I thought this was an extreme stretch to try to say that we should have an overruling of the death penalty based on some sort of proportionality rule. We have heard that theory discussed, but it has never been accepted as one we should go forward with.

Now, going to the business area. In a case entitled Billiot versus B.P. Oil, Billiot, while working in a B.P. Oil refinery, was burned with a valve when it failed and sprayed a hot substance on Billiot. His subsequent injuries were not the result of exposure to the substance, but to the heat of the substance. He sued the oil company, seeking compensatory relief under the workers compensation law, and punitive damages under a law allowing punitive damages to individuals injured by the storage, transportation, or handling of hazardous substances.

On September 29, 1994, Judge Dennis wrote a majority opinion for the Louisiana Supreme Court on the case. In his ruling he, in effect, reinterpreted two State laws—the workers compensation law and the law allowing individuals injured by hazardous materials to seek punitive damages.

Dennis breathed new and fictional life into a 1914 workers compensation statute by postulating that the exclusive remedy provision of the Louisiana workers compensation law did not apply to punitive damages. In addition, he interpreted that Billiot could sue for punitive damages under the hazardous materials damage law—even though the injury was not caused by the hazardous material.

The impact of this ruling was disastrous for business in the State of Louisiana and equated to the mother lode of case opportunities for lawyers in that State. The landmark ruling did not crack the dike of tort litigation—it blew it wide open, and thousands of small business owners stood downstream of these flooding waters. That ruling was a shining example of judicial activism at work, one where two laws were interpreted anew from whole cloth, creating this new area for litigation.

There are a whole series of cases where Judge Dennis has ruled in ways that can be of great concern to those who are interested in getting fair rulings and doing business. We have a whole list of these cases. I will submit these as part of the RECORD. I think we have about 15 cases.

I ask unanimous consent that the list of cases be printed in the RECORD.

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

ANTI-ECONOMIC DEVELOPMENT DECISIONS AUTHORED OR CONCURRED IN BY JUSTICE DENNIS

Billiot v. B.P. Oil Company, No. 93–C–1118 (La. Sup. Ct. Sept. 29, 1994) (Authored by Justice Dennis.):

This decision is a double-whammy against the business community. First, it is an absolute assault on the exclusive remedy provision of workers' compensation that says an employer cannot be sued in tort for a work-related injury of an employee. Justice Dennis reasoned that since the Workers' Compensation Act (enacted in 1914!) did not specifically provide for inclusion of punitive damages in the tort exclusion, it doesn't exist. Further, he argues that, although the statute that triggers the punitive damages refers to the transportation, handling or storage of hazardous substances, the hazardous nature of the substance does not have to cause the injury! Trying to assess risk under this decision is going to be a nightmare—but one thing is sure; your insurance (or your liability exposure if you are self-insured) is going to go up!

B.P. Oil Company v. Plaquemines Parish Government, 642 So.2d 1230 (La. 1994) (Sales Tax) (Concurred in by Justice Dennis.):

This decision would extend the state sales tax on utilities and other items to the local level where the law currently prohibits it from being collected. This decision—if not reversed when the Supreme Court rehears it—will cost businesses and all utility customers hundreds of millions of dollars. LABI has joined over 60 other businesses and associations—including the NAACP and the Public Service Commission—in filing amicus briefs to ask the court to change this disastrous decision.

Halphin v. Johns Manville Sales Corp., 484 So.2d 110 (La. 1986) (Products Liability) (Authored by Justice Dennis.):

This case was one of the worst assaults on economic development ever handed down by a court in Louisiana. Prior to Halphin, liability in products liability cases was determined by looking at alleged design defects, failures to warn properly or manufacturing defects. Halphin added a new category by saying that some products were ''unreasonably dangerous per se.'' Under Justice Dennis' decision, even though a product that caused an injury had no design or manufacturing defect and had proper warning labels, the manufacturer could be forced to pay damages because the machine was ''unreasonably dangerous per se.''

The case sent a shock wave through the manufacturing and retail communities in Louisiana and throughout the United States. The decision was so radical that, in spite of strong trial lawyer opposition, the state legislature overturned the decision in 1988.

Ross v. La Coste, 502 So.2d 1026 (La. 1987) (Strict Liability) (Authored by Justice Dennis.):

In this case, which expanded the doctrine of strict liability, the owner/lender of a ladder was successfully sued for damages by the borrower for injuries caused when the ladder collapsed. The owner had no knowledge of the ladder's defects, yet was held liable.

Mr. LOTT. Mr. President, I will conclude with these three points. I think that Justice Dennis' judgment in the Tulane matter clearly should be questioned and should be reviewed by the Judiciary Committee as a whole. I think there is no question that this is a judge who has been an activist, and there are many decisions that back up just the two that I cited that raise questions about his activism. I think that should cause real concern in the Senate in confirming his nomination.

I urge that this nomination be recommitted to the Judiciary Committee.

I yield the floor.

Mr. BREAUX. Mr. President, I think, first of all, it is a little interesting to note that if this issue was of such monumental importance that it should be recommitted to the Judiciary Committee for further consideration, the chairman of the Judiciary Committee, the distinguished Senator from Utah, ORRIN HATCH, would be here advocating that. He is not. In fact, he does not support the motion to recommit.

The distinguished ranking member of the Judiciary Committee, Senator BIDEN, spoke here on the floor about this very issue and said that, as the ranking Democratic member of the Judiciary Committee, he, too, felt that the committee had exercised their responsibility and looked at this nominee very carefully. After the committee had voted, additional material that was submitted to the committee was considered by the professional staff, by the chairman of the committee, the distinguished Senator from Utah, and by the ranking member of the Committee on Judiciary, the Senator from Delaware, Senator BIDEN. They and the professional staff circulated all of that information to all the Judiciary Committee members. As I look around to see if there are any of these members here who are saying they somehow have not had an opportunity to consider this nominee, I see none.

I think it is clear that this case has been carefully considered by the committee. I think that Senator BIDEN, very eloquently and in great detail, covered all of the allegations we have heard this morning with regard to information that the Senator from Mississippi was arguing was a reason to recommit this to the committee. I think Senator BIDEN's comments were right on target. There is no basis whatsoever to send it back to the committee. The only allegation I heard that supported that argument was basically the fact that Judge Dennis should have recused himself in a case before the supreme court that he ruled on.

Senator BIDEN made it very clear that he had no conflict in that case, that the supreme court voted 6–1 and he very carefully documented why not only should he not have recused himself, that it would have been wrong had he done that, that he had an obligation as a justice to rule on the case, that he had no interest in the case whatever. That, I think, has certainly been clearly established.

If the distinguished chairman of the Judiciary Committee disagreed with that, I think that he would make that opinion known. He does not, and neither does the ranking member of the committee.

Mr. President, I have known Jim Dennis for a number of years, a long number of years. I have known him personally and known him as a very

distinguished jurist on the State supreme court. Somehow to argue on the other hand that he is out of touch with our State is to not consider all the number of times he has gone before the people of our State and offered himself for election, because we elect judges.

If he was out of touch with Louisiana, basically a conservative Southern State, he would not have been elected to the district court which he has been elected; that he would not have been elected as a court of appeals judge that he was elected to and subsequently reelected; that he would not have been elected to the State supreme court which he was elected and has served and then reelected without opposition to a 10-year term.

Louisiana does not elect people that they disagree with. I suggest that his opinions as a judge, his record as a State-elected official, as a Member of the House of Representatives, indicates that not only is he acceptable to the people of Louisiana, that he is enthusiastically accepted as someone that they have taken great pleasure in having them represent in legislative bodies and on every court in Louisiana: the district court, elected; court of appeals, elected; and the State supreme court, elected and reelected without anybody running against him.

I think it is clear that this person fits the mold of the type of judges and members of the judiciary that the people of Louisiana like to see.

Some say that he is not a mainstream jurist. I point out that in the 20 years he has served on the supreme court, the information that we have by the supreme court itself says that he has sat on 7,655 cases in which an opinion was published. He voted with the majority in 7,148 cases. That is 93 percent of every case they wrote an opinion on, he agreed with the majority.

All of these judges are elected, from all parts of our State. If he was out of touch with the people of my State of Louisiana, they would have said so. If he was out of touch with the other members of the judiciary, he would not have voted with them in deciding the majority of the opinions in 93 percent of 7,655 cases.

To somehow allege that he is not part of the mainstream I think is totally contrary to the record in the case.

Some say that he is not strong enough on crime, and we have some letters from some nameless people who write and say that he is weak on the death penalty or not good for law enforcement.

I have a letter from the attorney general of the State of Louisiana, the highest elected law enforcement official in our State, Richard Ieyoub. He says:

> John Dennis is universally regarded as one of the brightest and most effective judges in the State of Louisiana. His opinions are excellent examples of legal scholarship and reasoning. I have carefully monitored the decisions of the Louisiana Supreme Court relative to victims' rights and the operation of the criminal justice system in general, and I feel very comfortable with the decisions rendered by Justice Dennis on these matters. His opinions in the criminal law area have generally benefited law enforcement.

One of the sheriffs of one of the largest areas in our State, greater New Orleans, Jefferson Parish, a distinguished sheriff, Harry Lee, who, probably more than any other sheriff in Louisiana, is noted for being tough on crime and good for victims of crime and tough on criminals. Harry Lee, the sheriff, says:

> In my opinion, Justice Dennis has done an excellent job, both from the standpoint of law enforcement and individual citizens. He has faithfully followed the law as written by the legislature. He is generally regarded as a fair-minded, scholarly, hard-working and effective jurist. In short, he is extremely well-qualified, perfectly suited, and well able to serve with distinction as a judge of the U.S. Court of Appeals.

This is probably the toughest sheriff in the State of Louisiana. Would he say a respected jurist on the fifth circuit is an outstanding person and well-qualified if he was weak on crime and weak on the rights of victims of crime? Of course not. He has staked his public reputation on the fact that this person is just the type of judge we need.

My friend from Mississippi, Senator LOTT, distinguished majority whip, has cited two cases he says are evidence of his judicial activism or taking positions that is not in keeping with what we want in members of the judiciary.

I respectfully disagree with his conclusion and think that the cases that he has cited give us exactly the opposite result. He cited one case, the Billiot versus B.P. Oil Co. where victims were protected by the law of the State of Louisiana, and there are some who were penalized because they violated the law of Louisiana and are now raising opposition to Judge Dennis because he interpreted the law as it was written.

When someone disagrees with the law, you do not criticize the judge for applying the law. You try and give the law a change if you disagree. That is what legislative bodies are for. In this case, it was a workmen's comp case. The person was injured and he was injured very, very severely.

The law of Louisiana, the State law passed by a majority of the people in the legislature, allows for punitive damages in limited cases, in limited categories, involving wanton or reckless conduct or reckless disregard of public safety in the handling or transporting or storage of hazardous or toxic substances.

In this case, it involved hazardous material that ended up—because it was mishandled—injuring a person very severely. In this case, the State supreme court said that the law does not preclude a worker from being able to get punitive damages for the wanton or reckless conduct or reckless disregard of public safety. In this case, they applied the law properly and correctly.

It was not a judge's fault, if you will, that the case did not come out as some of the defendants would have liked it to come out. That is what the law said. If Judge Dennis had been an activist judge, he could have said, ''I don't think the law should say that; therefore I will come to a different conclusion.'' The exact opposite was true. Not only not being an activist by trying to rewrite the law, he applied the law. For those that do not like the law, go change the law.

Mr. President, it is interesting, that is exactly what happened. They put a coalition together in the last session of the Louisiana legislature and they got the legislature to change that law because they made the argument, and a number of the members of the legislature agreed with them, that the law was too generous in that opinion—not mine, but in theirs. They changed the law.

But you do not get mad at the judge for interpreting it correctly. If you do not like the law, you think it is not correct, you change the law. Do not change the judge who carefully interpreted it. That is what happened in the Billiot case.

In addition, the case was decided by a 5 to 2 decision of the supreme court of the State. Were all the judges wrong? I think not. I think they correctly interpreted the law as it was.

The State versus Prejean case that the distinguished Senator LOTT cited, Justice Dennis voted merely to grant the defendant a rehearing based on a recent U.S. Supreme Court decision that set out the parameters under which a death penalty can be instituted by court. The only thing that Judge Dennis was saying is that he wanted to have a rehearing in light of the new supreme court decision to see if it affected this particular case. It has nothing to do with Judge Dennis' support of the death penalty or being tough on crime.

In fact, I point out that Judge Dennis has repeatedly voted in court to uphold the death penalty. Since the death penalty was reinstated, Louisiana Supreme Court has heard on direct appeal the capital cases of some 98 defendants, affirming 84 percent and reversing 16 percent of those capital convictions on lower court. Judge Dennis sat on 93 of those cases and voted to confirm the convictions 80 times, 86 percent, just about the same average of everybody else on the court.

In the cases where Judge Dennis has dissented, it is interesting here because if you say that he is out of step with the majority of the court, he clearly is not. When he has dissented, however, his dissent has been upheld by the U.S. Supreme Court.

Judge Dennis, the facts show, authored the dissenting opinion in six cases since he has been on the supreme court. In six cases he dissented from the majority. In all six cases subsequently reviewed by the U.S. Supreme Court, in all six cases, the U.S. Supreme Court reversed the Louisiana

Supreme Court. It said, ''Justice Dennis, you are right. The supreme court of your State made an error in all six cases.''

I think when you look at this man's record, his distinguished record in every court in Louisiana, I think you would have to agree with me that this person deserves a seat on the fifth circuit court of appeals. He would make an outstanding judge, an outstanding jurist, as he has all his life.

I will not go into an argument as to whether it should be a Mississippi judge or a Louisiana judge for this vacant seat because I think the record is clear. You determine what area justices come from based on the caseload. I think the caseload between Texas and Louisiana and the State of Mississippi is very clear; very, very clear. I do not think there is even an argument. This vacancy should be from the State of Louisiana.

In 1993, the last year we had numbers, there were 1,309 appeals filed from district courts in Louisiana to the fifth circuit court of appeals. There were only 450 appeals filed from district courts in the State of Mississippi. That is a 2.9-to-1 ratio—essentially a 3-to-1 ratio. If the present vacancy is filled with Justice Dennis, Louisiana would have six seats on the fifth circuit; Mississippi would have two seats, a 3-to-1 ratio. The ratio is as close to being proper, when you look at the caseload, as is humanly possible to reach.

Louisiana has 34 active and senior district judges in our State. Mississippi has only 10 district judges, a 3.4-to-1 ratio.

So, when you look at very objective numbers on where should this seat come from, I think it is very clear that the caseload and the number of judges clearly indicate that a judge from Louisiana is the proper recommendation.

Second, I would argue very strongly, and I think it is very clear, the background, the history of this judge has been carefully, carefully scrutinized by the Judiciary Committee, and I think we should all support the ranking member and chairman of that committee in voting against the motion to recommit.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Mississippi [Mr. COCHRAN] is recognized.

Mr. COCHRAN. Mr. President, I understand there may be one or more other Senators who wish to speak to this motion to recommit the nomination. For the information of those Senators, and others, I am going to again point out the reasons why I am filing this motion and why I think the Senate should approve it. But I do not expect to take much time in arguing this point further.

We have had a pretty full discussion of the issue, particularly in the colloquy on the floor with the distinguished Senator from Delaware, the ranking member of the Judiciary Committee. I remain concerned about the attitude of the committee concerning the issue involving the case that was filed in Louisiana that made its way to the supreme court, in which Judge Dennis participated as a member of the Supreme Court of Louisiana, wherein legislators, who had provided tuition-free scholarships to Tulane University to friends and supporters, were sued by the Times-Picayune newspaper to compel the production of documents relating to that scholarship program.

I want to be sure the Senate understands exactly what the issues were and why Judge Dennis' refusal to recuse himself and his action in participating in the ruling on that case strikes me as inappropriate and a clear violation of the code of conduct of judges, both U.S. judges and judges who at the time were serving in Louisiana.

The Times-Picayune had tried to obtain, as I understand the facts, information from legislators, or from Tulane University itself, about the names of those who had been given scholarships by legislators. I am not suggesting this was violative of the law in itself. As a matter of fact, there was a specific statute authorizing these scholarships to be given. I do not know all the history, but, as I understand it, it had something to do with the fact that Tulane University has certain tax benefits under the laws of the State of Louisiana. The legislators who make the laws of the State of Louisiana were, in the last century, given the right to name certain scholarship recipients each year to attend Tulane without having to pay tuition.

Over the years, the tuition at Tulane has become quite substantial. As a matter of fact, Stephen Dennis, who is the son of Judge Dennis, received 3 years of tuition-free scholarship benefits to Tulane University from a member of the legislature in Louisiana, Representative Jones, that is estimated to have a value of about $60,000.

The suit involved a refusal of legislators to say or to disclose or provide records of information about who they had given scholarships to. Tulane had likewise refused to give this information to the paper. Tulane took the position that this was information that should be made available by the legislators. They had customarily made it a practice of providing that information to legislators who requested it, but not to others, third parties.

So, the case proceeded to a trial. The legislators refused to provide the information, so a district court judge at the trial level ruled that these records were public documents and public access was a matter of right.

A second question that had been asked—and relief demanded—was that the legislators be made to turn over those documents to the newspaper. The district court agreed with that and made a part of its judgment an order granting a writ of mandamus. A writ of mandamus requires a public official to do what they ought to do under the law. Having ruled that this was public information, public records to which the Times-Picayune were entitled, the court followed it to the next step and ruled that the legislators who had access to these documents should be required and mandated by the law and by the court to turn those documents over.

And the third issue was whether or not the Times-Picayune should be awarded attorneys' fees, having been forced to file the suit by the refusal of the legislators to turn over these documents. And the judge also ruled that they were entitled to attorneys' fees. So the case, because the legislators disagreed with the ruling, was appealed to the next step. It was a fourth circuit court of appeals in the State of Louisiana.

That court decided the district court had ruled correctly in the first instance, that these were public documents, but they did not grant the writ of mandamus. So they reversed the decision of the district court as to the writ of mandamus and they also reversed on the question of attorney's fees. So in this situation, the Times-Picayune disagreed with that ruling and they appealed, or filed for a writ of certiorari for a hearing before the State supreme court.

Enter Judge Dennis. Judge Dennis' son had been granted a tuition waiver. Of course his name would be among those in the records held by Tulane University. These tuition waivers had a value to his son of about $60,000. Judge Dennis himself had been a member of the legislature and, as such, had the right to grant scholarships himself when he was a member of the legislature, so the records of his own decisions were also among those records that would be subject to being disclosed to the public, not only as a matter of right that the public would have, but as it relates to the responsibility of each legislator. If the supreme court sided with the district court, it would actually rule that the legislators were required to make this information available on request to newspapers such as the Times-Picayune. And, of course, the issue of attorney fees was also raised before the supreme court.

Now the Judiciary Committee, not having had any of that information before it but simply the nomination from the President—President Clinton nominated Judge Dennis in the last Congress—had a cursory hearing. Judge Dennis was asked five questions. There was no witness who appeared for him or against him to testify to any other matters. The committee did not inquire into any of these issues raised by that suit, by Judge Dennis' participation in the rulings on that suit at all. No one had heard about it. Judge Dennis knew about it. He had been questioned by the newspaper about it. He did not tell the Judiciary Committee that.

So the Judiciary Committee reported out the nomination. And after they had done that, then the Times-Picayune wrote this story based on the information they had obtained as a result of this lawsuit and other and independent investigations they had undertaken.

So the issue, it seems to me, is whether or not Judge Dennis adhered to the rulings of the courts, adhered to the standards of ethical conduct, adhered to the code of judicial ethics that he had to be aware of, that was in effect in Louisiana at the time, and which is in effect for all U.S. courts throughout the land. I am going to read from canon 1 of the Code of Conduct for Federal Judges.

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and should personally observe those standards so that the integrity and independence of the judiciary may be preserved.

In the commentary below it says:

Deference to the judgments of rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depend in turn upon their acting without fear or favor.

And in canon 2:

A judge should respect and comply with the law, and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. A judge should not allow family, social, or other relationships to influence judicial conduct or judgment.

Mr. President, I submit that the circumstances of this case involving the tuition waivers in Louisiana, the legislators and their rights under the law—this case that was filed asking for information about the records and past practices of legislators was acted upon by Judge Dennis in disregard of the canons of code of conduct of judges—that should be reviewed and considered by the Judiciary Committee.

I am hopeful that Senators will approve the motion to recommit this nomination to the Judiciary Committee to give the committee an opportunity, each member of the committee an opportunity, to become familiar with the facts, to ask questions of Judge Dennis or others who may have information touching on this subject, so that we in the Senate will have a full report and can base a decision about whether or not to vote to confirm Judge Dennis on a full and complete inquiry, which, in my judgment, ought to be undertaken by the Judiciary Committee at this time.

Mr. President, I understand that Senator KYL is here and is interested in addressing this issue.

I ask unanimous consent that I may be permitted to yield the floor so that he may speak, and then I will reclaim my recognition without losing my right to continue my remarks.

The PRESIDING OFFICER (Mr. FRIST). Is there objection? Without objection, it is so ordered.

Mr. KYL. Thank you, Mr. President. I thank the Senator from Mississippi for yielding. I would like to address this for 2 or 3 minutes.

I am a member of the Judiciary Committee. But, as is the Presiding Officer, I am a freshman and, therefore, was not present when the Judiciary Committee held its meetings on this matter in September 1994. There are five new members of the Judiciary Committee. So roughly one-third of the committee is new and did not have an opportunity to review the application, to question the witness, and to resolve matters that may have been raised at that time.

I understand that most of the questions have actually been raised since then. But I suggest that probably raises the question of perhaps having an additional hearing to deal with these questions.

I have the greatest respect for Senators BREAUX and JOHNSTON, and I certainly admire their support for this nominee. I know that Senator HATCH has thought long and hard about this as chairman of the Judiciary Committee, trying to abide by his commitment to the administration to move these nominees along with a minimum of difficulty. But, given the fact that about one-third of the members of the Judiciary Committee have not had an opportunity to question Judge Dennis, and, second, that the transcript from the hearing where that opportunity was afforded is very meager to say the least, it seems to me that perhaps the motion to recommit would be the best course of action to consider at least these new allegations.

I have a copy of the transcript of the proceedings that were held on September 14, 1994. Only one member of the committee was present, the Senator from Alabama. He asked five rather perfunctory questions. I do not mean that to demean his questioning. They are the same questions that I have asked nominees after I have satisfied myself that they possessed the requisite qualifications for the position. The questions were simply to the point of would he follow precedent, would he abide by the Supreme Court law, and so on. Of course, the judge answered yes. So those five minimal questions really do not establish much of a record upon which to make a decision.

Since then we have these allegations—again most recently in the newspaper—that, frankly, pose some very serious questions about whether the judge should have recused himself in an extremely important matter in his own State.

I first became aware of this nomination because of the question in my mind about whether or not the proper relationship of judges in Mississippi and Louisiana was being satisfied as a result of the nominee from Louisiana as opposed to a nominee from Mississippi. I am very concerned that the proper relationship always exist within the circuits. We are in the circuit of California, and, obviously, California is a very big part of the ninth circuit. We always want to make sure that we have the proper relationship there, and, if there is an Arizona position available, that position be filled from within Arizona.

I understand that issue has essentially been worked out based upon commitments that would be made about future nominees, and I may be wrong in this. But I also understand that Judge Abner Mikva was the person from the White House who wrote the letter expressing the commitment. Judge Mikva, of course, is no longer there, which illustrates the fact that commitments are important between people but sometimes circumstances change and it is not always possible to fulfill those commitments. So I thought that was resolved. I am not sure that it is. I would like to satisfy myself on that as well.

But, Mr. President, in view of the fact that these allegations are new, they were not before the committee at the time, and, therefore, certainly the Judiciary Committee cannot be blamed, but given the fact that a third of the committee has not participated in hearings on this judge, it seems to me that we would all be better served by having another hearing allowing the judge to come before us so we may question him about these matters. And I would feel much better about the decision that I would have to make later on as a member of the Judiciary Committee having that knowledge before me. Then, when colleagues who are not on the Judiciary Committee ask me what I think as a result of the fact that I participated in the nomination process, I would be in a better position to with some confidence say to them I reviewed it, we had him before us, I am convinced he will be just fine, or perhaps I still have some questions about it. But I will not know that unless we have this kind of an opportunity.

So I support the motion that has been made to recommit by the Senator from Mississippi reluctantly because it is more work for our chairman and our committee. But I think that is probably the proper thing to do with such an important nomination as a member of the fifth circuit court of appeals.

Again, I appreciate the Senator yielding the time.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator for his comments, and I appreciate the information that he has made available to the Senate which has not yet been brought up on the floor; that is, that this is a new Congress, this is a new committee, and there are members of the committee and their staffs who have not had an opportunity to become familiar with this nominee.

He was reported out during the last Congress, and, frankly, had not been on the screen and had not been something that has been on the minds of members of the committee. As a matter of fact, I have had several Senators ask me who the nominee was and what the

issue was. This is just simply something that has not been discussed around the Senate this year. It may have been remembered by some Senators who were here last year. But it is a matter of first impression, and that is why I think it is important to take a little bit of time to explain why the concerns are being raised and why the motion to recommit this nomination to the committee is being made.

The Senator from Delaware was good enough to discuss this nomination from his point of view as a former chairman of the Judiciary Committee and his recollections and his information from his staff about this case, but his attitude about it obviously is different from mine on the question of whether or not this is a serious issue and should be carefully considered by the Judiciary Committee after the new information about whether the judge should have recused himself in that case involving the Times-Picayune or whether this leads to a reasonable conclusion that this is not the kind of judgment that we want to see reflected by judges who occupy the second highest court in the land.

The court of appeals is just beneath the supreme court in terms of power and position in the hierarchy of our Federal judicial system. Most cases are disposed of at the court of appeals level which are appealed from the district courts. Very few cases go beyond the court of appeals to the supreme court. So this court, for really all practical reasons, is the court of last resort for most litigants, and so the power and the influence of courts of appeals are immense in our judicial system.

So those who are nominated to serve on that court should be subjected to the most careful scrutiny to determine their qualifications to serve on that court, their quality of judicial temperament, how they would approach the role of court of appeals judge, and, third, their adherence to the code of conduct of judges, their own personal judgment about ethical standards and the extent to which they should set a very high standard and an example, so that persons having business before the courts in our Federal judicial system will have confidence in the integrity of the judges, in their impartiality and in their abilities to be able to discharge these responsibilities at a high degree of excellence.

That is a pretty tall order when you have clearly laid out here a situation where Judge Dennis refused or neglected to let the Judiciary Committee know about this controversy that had arisen which involved him, not just as a judge on the Supreme Court of Louisiana but as a legislator, where he had actually participated in a decision made by the State supreme court not to grant certiorari in a case being appealed to that court from an intermediate court of appeals in the State, which involved issues in which he was personally involved and his son was personally involved, not to say that they had, either one, done anything illegal but nonetheless the fact that records of information involving their activities were at issue, and the question was whether or not there was a duty under the law to make this information available on the request of the Times-Picayune newspaper.

That was the question before the court. He was on the court, and he participated in ruling that they did not want to hear that case. The supreme court did not want to grant the right of appeal on this case to that court.

And so the net effect was to affirm or not disturb the decision that had been made by the intermediate court. And one aspect of that intermediate court's decision was not to require legislators to provide that information to the paper. The district court said they had to and they should and granted a writ of mandamus requiring legislators to respond affirmatively to requests and provide that information. They did not have the records in their custody.

The testimony at the trial level from the custodian of records at Tulane University was that Tulane did not give this information to anybody who asked for it. They gave the information to the legislators who wanted their records that were kept there about whom they gave these scholarships to, but Tulane was not going to respond to a request from the paper. And the legislators were not cooperating. They were not asking Tulane to give them the information so they could give it to the paper. So the question was whether these legislators could be compelled by a court of law or under a writ of mandamus to provide that information to the paper when it was requested.

That was the issue. And the distinguished Senator from Delaware says that was resolved before it got to the supreme court. Well, it was decided but it was not resolved.

I wish to read from the brief of the appellants who were asking the supreme court to take jurisdiction and to hear this appeal in assigning the errors committed by the intermediate court of appeals on page 9 of their brief.

> Assignments of error. The Fourth Circuit erroneously reversed that portion of the District Court's judgment which ordered that a writ of mandamus issue directing the respondent legislators to produce to the Times-Picayune those of the legislators' scholarship nomination forms in the possession of the legislators and/or in the possession of Tulane University.

That puts at issue the interests of Judge Dennis as a legislator. Forget about the fact that his son has gotten a scholarship from another legislator worth $60,000, and his name is in the records and that will be subject to being produced by that legislator upon request from the Times-Picayune. Forget that. Set that aside. I am talking about the judge's personal interest is at issue in that assignment of error. For the Senate to be told today that that issue was settled, it was not before the State supreme court, is just not true.

I am not suggesting it is an intentional misrepresentation, but I am reading from the brief where the assignments of error are laid out, and this is to the Supreme Court of the State of Louisiana. And all supreme court justices reviewed it and decided not to hear the case, and Judge Dennis decided to vote on that case without revealing his personal interests, without discussing his personal interests with litigants.

Now, that is an erroneous view of the responsibilities of a judge, under my state of reference, with the code of conduct clearly spelling out here about the duty to remain impartial, the duty to disqualify oneself in cases where there is a personal interest. That is a personal interest. The Judiciary Committee did not know at the time it reported out this nomination that this was even an issue. They did not know about this case. They did not know that it was becoming a controversy.

Only after they reported the nomination in the last Congress did this issue really become public. And because this new information came to light after the Judiciary Committee has acted, it is incumbent upon the Senate, in my judgment, to approve this motion to recommit the nomination to the Judiciary Committee and allow Senators like the Senator from Arizona, who spoke, who are new members of the committee, who never had an opportunity to look into these issues, to do so, and, I suggest, to have a hearing, to have a hearing that goes beyond five perfunctory questions that were asked of this nominee when he was before the committee in 1994.

The Senate ought to demand that more be done to satisfy us as to whether or not this nominee has the kind of attitude about judicial ethics and personal responsibilities of judges in cases in which they have an interest to deserve confirmation to a lifetime appointment on the second highest court in the land.

Mr. President, that is just as clear to me as anything can be, that to require the Senate to vote up or down on this nomination at a time when we have not had a full review of this issue by the committee in a hearing, if that is the disposition of the chairman and other members—and to give them that opportunity, we ought to vote for this motion.

I hope that Senators will look on their desks. I have put a copy or asked the pages to put a copy of an article that was written today by the Times-Picayune on this issue. I did not know the article was going to be written when this was being pushed to be brought up. But it has been written, and we made available copies. There are other newspaper articles that have been published by the Times-Picayune on this issue, and they all point to the fact that this is a case of great notoriety and importance in Louisiana.

I think it is a case that we should take a more active interest in than we

have up to this point, and hence the opportunity today for the Senate to review the situation under this motion to recommit.

I hope the Senate will look with favor on the motion, and I urge approval of the motion to recommit the nomination.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I had not planned to speak on this, but there have been some issues raised by both sides that I would like to clarify and put to rest.

One of the most difficult committees in the Congress is the Judiciary Committee. Its work is very important. We handle the confirmation of all judges in the Federal courts and confirmation of many, many other officials.

Nobody takes this responsibility any stronger or any more significantly than I do. Since I have been in the Senate, 19 years, a high percentage of judges who currently sit on the Federal bench have come before the committee while I have been a member. I consider the review of judicial nominees to be one of the most important functions of the Senate.

The committee has completed its investigation of Judge Dennis and into Justice Dennis' decision not to recuse himself from a lawsuit involving a Louisiana newspaper. Additionally, we have thoroughly investigated the nominee's failure to notify the committee of the newspaper's inquiry.

In my humble opinion, a case can be made that Justice Dennis should have recused himself pursuant to canon 2 of the Louisiana Code of Judicial Conduct. I do not believe that he intentionally violated any code of conduct. But, having said that, a case can be made that he should have recused himself in order to avoid the appearance of impropriety.

Now, this is a point Senator BIDEN and I may disagree on. Nevertheless, so everyone understands this, the committee has completed its investigation. Given the evidence before us, I am not satisfied that this isolated incident warrants Justice Dennis' disqualification from the Federal bench. In this instance, I do not think it does. Justice Dennis has provided answers on these questions to the Committee. It depends on whether you accept his answer or not and whether you will give him the benefit of the doubt. I accept his answer.

As chairman, I instructed my staff to offer to brief every member of the committee or members of their staff who wanted to be briefed on this matter prior to it coming to the floor. Additionally, we offered to brief anyone else who wanted to be briefed on this prior to the floor consideration.

I just want to make it very clear that, if the nominee is recommitted, it is my intention that the committee take no further action. I am not going to look into this any further. Everybody knows what there is to know about this. We are not going to hold any further hearings on the matter. If the nomination is recommitted, that is going to be it, as far as I am concerned. Accordingly, I am going to oppose the motion to recommit.

Now, I understand that the distinguished Senators from Mississippi believe there is an imbalance on the fifth circuit. I think Mississippi has not been treated as fairly as it should have been. In that regard, I have gone to the White House and made it very clear that the very next vacancy that is created, if we pass a new judgeship bill, that Mississippi is going to get that vacancy. And I will personally try to correct that deficiency.

But let us have nobody miss any bets here. The fact is, there is no excuse for anybody saying that we should recommit this and have rehearings and redecide this all over again. We are not going to do that. That decision is going to be made right here, right now. And if the motion to recommit is granted, that is going to be it for Justice Dennis.

I am going to oppose the motion to recommit because we have come a long way. I have seen judge after judge, whether a Republican administration or a Democratic administration, who had some problem in their lifetime that somebody can find some fault with. Some problems are valid to a degree. In this case, the judge claimed to have voted the right way, said that it was an oversight on his part, and basically he has an answer for it. Whether you agree with the judge's opinions or not, this justice appears to be an honorable, decent justice.

Frankly, I just want to make that clear so everybody knows as they vote here what is going to happen. There were no dissenting votes against the nominee from the committee. Justice Dennis was favorably reported out by unanimous consent. These questions came up afterwards. The committee reviewed this matter, and we offered every Senator or their staff members an opportunity to be briefed on the findings. I do not think there is any reason for anyone to think that this is something that is a first impression that has to upset this particular nominee.

I am willing to abide by the decision of the Senate in this matter, however I want to make the record clear, I am going to vote against this motion to recommit.

I yield the floor.

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

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I do not intend to prolong the debate. I do want to add to the RECORD a copy of the newspaper article that has not been printed. I know Senator LOTT put a copy of an article from the Times-Picayune in the RECORD. I think he put in the article dated September 25. There is another article, July 23. I ask unanimous consent that both articles, to be sure we have them in the RECORD, be printed in the RECORD.

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

[From the Times-Picayune, July 23, 1995]

JUDGE DEFENDS HIS TULANE RECORDS VOTE

(By Tyler Bridges)

State Supreme Court Justice James Dennis, whose son received Tulane tuition waivers, later voted to deny a request by The Times-Picayune for review of a lower court decision in the newspaper's suit seeking access to five New Orleans legislators' Tulane scholarship nomination forms.

The newspaper eventually received the scholarship nomination forms of all Louisiana legislators by filing a subsequent lawsuit against Tulane.

The records obtained from that suit show that Stephen Dennis was awarded Tulane tuition waivers for three years in the late 1980s by then-state Rep. Charles D. Jones, D-Monroe.

An associate justice of the Louisiana Supreme Court since 1975, James Dennis last year was nominated to a federal judgeship by President Clinton. That nomination, to the 5th U.S. Circuit Court of Appeals, was approved by the Senate Judiciary Committee Thursday night and now goes to the Senate floor. Dennis, however, continues to face strong opposition from Mississippi's two senators, who argue that an appointee from their state deserves the judgeship and that Dennis is soft on crime. The appeals court hears cases from Texas, Louisiana and Mississippi.

Prior to his election to the Louisiana Supreme Court, Dennis, 59, a native of Monroe, was a state district judge, an appellate judge and a state representative.

The Tulane scholarship that Dennis' son received is awarded under a century-old program that permits every legislator to award a tuition waiver every year.

Jones, now a state senator, declined to explain why he nominated Stephen Dennis.

In a written statement to the newspaper, Dennis said that his son in 1985 had sought the scholarship on his own, ''without my suggestion or help * * * At that time, Steve was 26 years old, married, and a resident of (Jone's) district. He and his wife were struggling but fully self-supporting and financially independent of me. I was unable to assist Steve in going to law school because of my obligations of support owed to my wife and three younger children. I did not ask (Jones) to nominate Steve for the waiver. I believe that the nomination was made on the basis of Steve's academic record, his financial need of educational assistance and his outstanding extracurricular and other achievements.''

Dennis in March 1995 voted in the majority of a 6–1 decision to deny The Times-Picayune's request that the Supreme Court review an appeals court ruling to the newspaper's suit against the new Orleans legislators.

In a written statement to the newspaper, Dennis said the case did not pose a conflict of interest for him because the appeals court already had upheld The Times-Picayune's primary contention that the nominating forms were a public record. Dennis said further review of the ''collateral issues'' raised by The Times-Picayune's request for review was not warranted.

While the appeals court upheld the newspaper's position that the forms were public records, it also had ruled that legislators

were not required to get their scholarship nomination forms from Tulane if they did not have the forms in their possession. This issue was important to the newspaper because numerous legislators had declined to identify their recipients, no longer held the forms themselves and had declined to get the forms from Tulane. In fact, even after the appeals court ruling, four of the five defendants refused to obtain their forms from Tulane and make them public.

''I did not have any interest in the outcome of the only issue to come before the Supreme Court,'' Dennis wrote the newspaper. He would not answer questions beyond his written statement.

Under the Louisiana Code of Civil Procedure, a judge may reuse himself when he ''is biased, prejudiced or interested in the cause or its outcome or biased or prejudiced toward or against the parties . . . to such an extent that he would be unable to conduct fair and impartial proceedings.''

After the Supreme Court denied The Times-Picayune's request for review, the newspaper filed suit to force Tulane to release the scholarship nomination forms of all Louisiana legislators. Civil District Judge Gerald Fedoroff ruled in the newspaper's favor in June, and Tulane released the records this month.

[From the Times-Picayune, Sept. 28, 1995]

TULANE ROLE MAY KILL POST

(By Bruce Alpert)

WASHINGTON.—Louisiana Supreme Court Justice James Dennis, role in the Tulane University scholarship scandal may kill his dream of winning Senate approval as a federal appeals court judge.

Sen. Thad Cochran, R-Miss., believes that the Senate Judiciary Committee ''should reconsider'' its earlier decision to support Dennis' nomination to the 5th Circuit Court of Appeals ''because of information that came to light after the committee acted,'' said Stephen Hayes, the senator's spokesman.

Cochran referred to revelations that Dennis voted to deny a request by The Times-Picayune for review of a lower court decision in the newspaper's suit seeking access to Tulane scholarship information; even though his son received one of the tuition waivers.

Cochran and fellow Mississippi Sen. Trent Lott, the Senate's second most powerful member, have long opposed the Dennis nomination; arguing that the appointment should go to a resident of their state. But the revelations about Dennis' role in the Tulane case have given their efforts new life.

Hayes said Cochran would make a motion to delay a floor vote and return the issue to the Senate Judiciary Committee if Senate Majority Leader Bob Dole, R-Kan., bows to pressure from Louisiana's two Democratic senators, John Breaux and J. Bennett Johnston, to move the matter for a yes-or-no vote.

Breaux, in particular, was instrumental in getting President Clinton to nominate Dennis for the appeals court, which handles cases from Louisiana, Texas and Mississippi. But the nomination, first made in 1994, has never reached the Senate floor.

On Wednesday, Bette Phelan, spokeswoman for Breaux, said both her boss and Johnston ''continue to urge Senator Dole to schedule a vote on Judge Dennis' nomination as soon as possible.''

Judiciary Committee staff conducted a review of the judge's role in the Tulane scholarship case, a committee spokeswoman said. But she would not discuss the findings, saying only that interested senators can call the committee and get an oral summary.

Two people familiar with the committee staff finding offer different assessments of what the committee staff found. One described the findings as ''more critical than positive'' about the judge, while another said the staff simply summarized information previously reported in The Times-Picayune.

At issue is Dennis' vote in a 8-1 Supreme Court decision is March to deny The Times-Picayune's request for access to five New Orleans legislators' Tulane scholarship nomination forms.

Dennis declined to comment Wednesday. But earlier, in a written statement to the newspaper, Dennis said the case did not pose a conflict of interest because the appeals court already had upheld The Times-Picayune's primary contention that the nomination forms are public records.

Charles D. Jones, the one-time state senator who granted the scholarship to Dennis' son, wrote a letter to the committee last week. In it, he supports the judge's account that Dennis had nothing to do with the awarding of the scholarship to Stephen Dennis.

''Stephen contacted me, expressed his need for financial assistance to pursue his education, requested the tuition waiver and I was glad to recommend him for it,'' Jones wrote Committee Chairman Orrin Hatch, R-Utah. ''Justice James Dennis did not participate in any request directly or indirectly in my initial decision to recommend Stephen for the tuition waiver.''

Ironically, both Louisiana senators have children who benefited from the scholarship program. Johnston's two children received legislative tuition waivers, and a son of Breaux got a waiver from former New Orleans Mayor Sidney Barthelemy.

Mr. COCHRAN. Mr. President, it seems to me that the facts that led me to file this motion have been fully provided to the Senate. The code, the canons of ethics involving impartiality, the responsibility of judges under these circumstances have been discussed.

I do want to point out that the Fifth Circuit Court of Appeals for the State of Louisiana itself handed down a case in August 1986 in which the obligation of judges to disqualify themselves in cases in which they have a personal knowledge is one that the court takes very seriously.

One of the head notes in that case is as follows:

> Under the disqualification statute, recusal is required even when a judge lacks actual knowledge of the facts, indicating his interest or bias in the case, if a reasonable person knowing all the circumstances would expect that the judge would have actual knowledge.

It strikes me in reading that and then looking at the underlying decision of the court of appeals—incidentally, this case came out of the State of Louisiana, so it should have been within the knowledge of the judge as to what the law is, not just the canons of ethics, but what the law is regarding recusal and disqualification.

But it strikes me that this clearly applies to this situation. Not only did the judge have personal knowledge about the scholarship benefits that State legislators could award, he had to know that these records were kept at Tulane, he had to know that legislators did not like to provide information from those records to the general public, he had to know the importance of this to the class to which he personally belonged, the legislators of the State of Louisiana.

So irrespective of the fact that his son had been given a scholarship worth $60,000 to Tulane by another legislator and that that information would be made available, or arguably could be, under a writ of mandamus or would be required to be made available if the court upheld the district court's rule, all of this information and the involvement of the judge personally in this program, the benefits that had been given to his family as a result of this program, all would become public knowledge at a time when he had been nominated to serve on the court of appeals and the Judiciary Committee of the United States had his nomination under consideration. And were it divulged that this information was coming to light at that time, this could have had an adverse effect on the proceedings to consider his nomination.

All of that is clear now, but it was withheld from the Judiciary Committee by his neglect to advise that he had been contacted by a reporter at the Times-Picayune. But it is just as clear as it can possibly be that this should have been the subject of inquiry by the Judiciary Committee at the time. And a senior staff member, when we were getting a briefing in my office about the follow-up investigation that the chairman ordered, said that if the Judiciary Committee had that information at the time they reported out the nomination, they would not have done it.

This is an opportunity to give the Judiciary Committee the opportunity to make a decision based on the full facts, a full investigation. If a hearing is required, any member of the Judiciary Committee can ask the chairman to have a hearing. He says it is not the intent to have a hearing. Well, I think it ought to be looked into further. I think closer scrutiny ought to be brought to bear on this nomination by this committee so that all members of the committee will have a set of facts on which to base a decision about the fitness of this person to serve on the court of appeals.

Mr. President, I urge the Senate to approve the motion to recommit.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. For the benefit of all our colleagues, so they will know on their schedules what is coming, I ask unanimous consent that the vote occur on the motion to recommit the Dennis nomination at 3 p.m. today, 25 minutes from now.

Mr. FORD. Mr. President, I want to inform the Chair that this side has no objection to the distinguished Senator's motion.

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

Mr. COCHRAN. 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. COCHRAN. 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. COCHRAN. Mr. President, I ask for the yeas and nays on the motion to recommit.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. 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. LOTT. Mr. President, I ask unanimous consent the the order for the quorum call be rescinded.

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

Under the previous order, the question occurs on the motion to recommit.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 46, nays 54, as follows:

[Rollcall Vote No. 473 Leg.]

YEAS—46

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bond	Gramm	Nickles
Brown	Grams	Pressler
Burns	Grassley	Roth
Chafee	Gregg	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Smith
Cohen	Inhofe	Snowe
Coverdell	Kassebaum	Specter
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	
Faircloth	McCain	

NAYS—54

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Bennett	Glenn	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Harkin	Moynihan
Boxer	Hatch	Murray
Bradley	Hatfield	Nunn
Breaux	Heflin	Packwood
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Jeffords	Reid
Campbell	Johnston	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
Dodd	Kerry	Simon
Dorgan	Kohl	Simpson
Exon	Lautenberg	Stevens
Feingold	Leahy	Wellstone

So, the motion to recommit was rejected.

Mr. REID. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of James L. Dennis, of Louisiana, to be U.S. circuit judge for the fifth circuit?

The nomination was confirmed.

Mr. BREAUX. Mr. President, I move to reconsider the vote.

Mr. DOLE. I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

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

LEGISLATIVE SESSION

Mr. DOLE. I ask unanimous consent that the Senate now resume legislative session.

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

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. DOLE. I now ask unanimous consent that the Senate turn to the consideration of the State-Justice-Commerce appropriations bill.

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

Mr. DOLE. Mr. President, I will just give my colleagues an update on where we are on the items to be completed before the recess.

The State-Justice-Commerce appropriations bill. I understand there is some great progress being made on that bill.

The Interior appropriations conference report is coming from the House on Friday. We did have a rollcall vote on the bill. I am not certain we will need a rollcall vote on the conference report. We have had a request for a vote on one or the other.

The DOD appropriations conference report is coming from the House Friday. A rollcall vote was taken on that bill, too. If somebody requests a vote, obviously we will have one.

The continuing resolution arrived from the House this afternoon. We hope to pass that by unanimous consent.

Then the adjournment resolution, which I do not think there will be a vote on.

Then the Senate Finance Committee needs to complete action on their portion of the reconciliation package, and I could announce to members of the Finance Committee right now we have staff on each side going through a number of amendments to see if they, staff, can agree, Republican and Democratic staff, and put them in a little ''cleared'' pile and a ''rejected'' pile and then ''above our pay grade'' pile, which will be for Members' consultation. We hope to save a lot of time that way. The chairman has indicated that he will call us back to the Finance Committee meeting as soon as that has been completed.

So it seems to me there is no reason for us to be anything but optimistic about next week at this point. Much will depend on the leadership of the distinguished Senator from Texas [Mr. GRAMM] and the distinguished Senator from South Carolina [Mr. HOLLINGS].

Mr. DASCHLE. Will the Senator yield?

Mr. DOLE. I will be happy to yield.

Mr. DASCHLE. The majority leader did not mention the Middle East facilitation bill. Is that on the list?

Mr. DOLE. I think that is going to be resolved. I need to talk to the Senator about that.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments, as follows:

[The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.]

H.R. 2076

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $74,282,000; including not to exceed $3,317,000 for the Facilities Program 2000, and including $5,000,000 for management and oversight of Immigration and Naturalization Service activities, both sums to remain available until expended*: Provided, That not to exceed 45 permanent positions and full-time equivalent workyears and $7,477,000 shall be expended for the Department Leadership program: Provided further, That not to exceed 76 permanent positions and 90 full-time equivalent workyears and $9,487,000 shall be expended for the Executive Support program: Provided further, That the two aforementioned programs shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.*

(TRANSFER OF FUNDS)

For the Joint Automated Booking Station, $11,000,000 shall be made available until expended, to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

POLICE CORPS

For police corps grants authorized by Public Law 103-322, $10,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $26,898,000, to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City or any domestic or international terrorist

incident, (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities, and (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities: *Provided,* That funds provided under this section shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, [$39,736,000] *$72,319,000.*

VIOLENT CRIME REDUCTION PROGRAMS, ADMINISTRATIVE REVIEW AND APPEALS

For activities authorized by [sections 130005 and] *section* 130007 of Public Law 103–322, [$47,780,000] *$14,347,000,* to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,484,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $5,446,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including activities authorized by title X of the Civil Rights Act of 1964, and including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; [$401,929,000] *$431,660,000*; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided,* That of the funds available in this appropriation, not to exceed $22,618,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through ''Salaries and Expenses'', General Administration: *Provided further,* That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further,* That notwithstanding 31 U.S.C. 1342, the Attorney General may accept on behalf of the United States and credit to this appropriation, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States during fiscal year 1996.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act, 1989, as amended by Public Law 101–512 (104 Stat. 1289).

VIOLENT CRIME REDUCTION PROGRAMS, GENERAL LEGAL ACTIVITIES

For the expeditious deportation of denied asylum applicants, as authorized by section 130005 of Public Law 103–322, [$7,591,000] *$2,991,000,* to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $69,143,000: *Provided,* That notwithstanding any other provision of law, not to exceed $48,262,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further,* That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from the General Fund estimated at not more than $20,881,000: *Provided further,* That any fees received in excess of $48,262,000 in fiscal year 1996, shall remain available until expended, but shall not be available for obligation until October 1, 1996.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, including intergovernmental agreements, [$896,825,000] *$920,537,000,* of which not to exceed $2,500,000 shall be available until September 30, 1997 for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services to the Department of Justice related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, (3) paying the costs of the Department of Justice for the sale of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs, and (4) paying the costs of processing and tracking debts owed to the United States Government: *Provided,* That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $10,000,000 of those funds available for automated litigation support contracts and $4,000,000 for security equipment shall remain available until expended.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES ATTORNEYS

[For activities authorized by sections 190001(d), 40114 and 130005 of Public Law 103–322, $14,731,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $5,000,000 shall be available to help meet increased demands for litigation and related activities, $500,000 to implement a program to appoint additional Federal Victim's Counselors, and $9,231,000 for expeditious deportation of denied asylum applicants.]

For activities authorized by sections 190001(b) and 190001(d) of Public Law 103–322, $30,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, [$101,596,000] *$103,183,000,* as authorized by 28 U.S.C. 589a(a), to remain available until expended, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554), which shall be derived from the United States Trustee System Fund: *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: *Provided further,* That, notwithstanding any other provision of law, not to exceed $44,191,000 of offsetting collections derived from fees collected pursuant to section 589a(f) of title 28, United States Code, as amended, shall be retained and used for necessary expenses in this appropriation: *Provided further,* That the [$101,596,000] *$103,183,000* herein appropriated from the United States Trustee System Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from such Fund estimated at not more than [$57,405,000] *$58,992,000*: *Provided further,* That any of the aforementioned fees collected in excess of $44,191,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, [$830,000] *$905,000.*

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; [$418,973,000] *$439,639,000,* as authorized by 28 U.S.C. 561(i), of which not to exceed $6,000 shall be available for official reception and representation expenses.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES MARSHALS SERVICE

For activities authorized by section 190001(b) of Public Law 103–322, [$25,000,000] *$15,000,000,* to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

[SUPPORT OF UNITED STATES PRISONERS]

FEDERAL PRISONER DETENTION

For [support of] *expenses related to* United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General; [$250,331,000] *$295,331,000,* as authorized by 28 U.S.C. 561(i), to remain available until expended.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $85,000,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites; of which not to exceed $1,000,000 may be made available for the

purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $4,000,000 may be made available for the purchase, installation and maintenance of a secure automated information network to store and retrieve the identities and locations of protected witnesses.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $35,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,655,000.

PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

For payments to the Radiation Exposure Compensation Trust Fund, $16,264,000, to become available on October 1, 1996.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, [$374,943,000] *$359,843,000,* of which $50,000,000 shall remain available until expended: *Provided,* That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further,* That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 1,815 passenger motor vehicles of which 1,300 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; [$2,251,481,000] *$2,315,341,000,* of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and $1,000,000 for undercover operations shall remain available until September 30, 1997; *of which not less than $121,345,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security;* of which not to exceed [$14,000,000 for research and development related to investigative activities] *$98,400,000* shall remain available until expended; *and* of which not to exceed $10,000,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: *Provided,* That not to exceed $45,000 shall be available for official reception and representation expenses[: *Provided further,* That $50,000,000 for expenses related to digital telephony shall be available for obligation only upon enactment of authorization legislation].

VIOLENT CRIME REDUCTION PROGRAMS

[For activities authorized by Public Law 103–322, $80,600,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $35,000,000 shall be for activities authorized by section 190001(c); $27,800,000 for activities authorized by section 190001(b); $4,000,000 for Training and Investigative Assistance authorized by section 210501(c)(2); $8,300,000 for training facility improvements at the Federal Bureau of Investigation Academy at Quantico, Virginia authorized by section 210501(c)(3); and $5,500,000 for establishing DNA quality assurance and proficiency testing standards, establishing an index to facilitate law enforcement exchange of DNA identification information, and related activities authorized by section 210306.]

For activities authorized by Public Law 103–322 or Senate bill 735 as passed by the Senate on June 7, 1995, $282,500,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $50,000,000 shall be for activities authorized in section 521(a)(1) of Senate bill 735; of which $42,820,000 shall be for activities authorized in section 521(a)(2) of said Act; of which $13,900,000 shall be for activities authorized in section 521(a)(5) of said Act; and of which $148,280,000 shall be for activities authorized in section 521(a)(7) of said Act; and of which $5,500,000 shall be for activities authorized by section 210306 of Public Law 103–322.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; [$98,400,000] *$147,800,000,* to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,208 passenger motor vehicles, of which 1,178 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; [$781,488,000] *$790,000,000,* of which not to exceed $1,800,000 for research and $15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment shall remain available until September 30, 1997, and of which not to exceed $50,000 shall be available for official reception and representation expenses.

VIOLENT CRIME REDUCTION PROGRAMS

[For Drug Enforcement Administration agents authorized by section 180104 of Public Law 103–322, $12,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.]

For activities authorized by section 524(b) of Senate bill 735 as passed by the Senate on June 7, 1995, $60,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police-type use (not to exceed 813 of which 177 are for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; [$1,421,481,000] *$953,934,000,* of which not to exceed $400,000 for research shall remain available until expended, and of which not to exceed $10,000,000 shall be available for costs associated with the training program for basic officer training: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 during the calendar year beginning January 1, 1996: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further,* That the Attorney General may transfer to the Department of Labor and the Social Security Administration not to exceed [$30,000,000] *$10,000,000* for programs to verify the immigration status of persons seeking employment in the United States[: *Provided further,* That none of the funds appropriated in this Act may be used to operate the Border Patrol traffic checkpoints located in San Clemente, California, at interstate highway 5 and in Temecula, California, at interstate highway 15]*: Provided further, That not to exceed 15 positions shall be available for the Office of Public Affairs at the Immigration and Naturalization Service and not to exceed 10 positions shall be available for the Office of Congressional Affairs at the Immigration and Naturalization Service: Provided further, That the two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel in either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.*

VIOLENT CRIME REDUCTION PROGRAMS

[For activities authorized by sections 130005, 130006, 130007, and 190001(b) of Public Law 103–322, $303,542,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $44,089,000 shall be for expeditious deportation of denied asylum applicants, $218,800,000 for improving border controls, $35,153,000 for expanded special deportation proceedings, and $5,500,000 for border patrol equipment.]

For activities authorized by sections 130005, 130006, and 130007 of Public Law 103–322, $165,362,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $20,360,000 shall be for expeditious deportation of denied asylum applicants, $114,463,000 for improving border controls, and $40,539,000 for expanded special deportation proceedings.

BORDER PATROL

SALARIES AND EXPENSES

For expenses necessary for Border Patrol Operations, $489,200,000, to remain available until expended.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by section 130006 of Public Law 103–322, $127,300,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

CONSTRUCTION

For planning, construction, renovation, equipping and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, [$11,000,000] *$35,000,000*, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 853, of which 559 are for replacement only) and hire of law enforcement and passenger motor vehicles; and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,574,578,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $50,000,000 for the activation of new facilities shall remain available until September 30, 1997: *Provided further,* That of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 for the care and security in the United States of Cuban and Haitian entrants.

VIOLENT CRIME REDUCTION PROGRAMS

For substance abuse treatment in Federal prisons as authorized by section 32001(e) of Public Law 103–322, $13,500,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, and for the provision of technical assistance and advice on corrections related issues, $8,000,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; [$323,728,000] *$349,410,000*, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: *Provided,* That labor of United States prisoners may be used for work performed under this appropriation: *Provided further,* That not to exceed 10 percent of the funds appropriated to ''Buildings and Facilities'' in this Act or any other Act may be transferred to ''Salaries and Expenses,'' Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act: *Provided further,* That of the total amount appropriated, not to exceed $22,351,000 shall be available for the renovation and construction of United States Marshals Service prisoner holding facilities.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,559,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, [$97,977,000] *$102,345,000*, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102–534 (106 Stat. 3524).

VIOLENT CRIME REDUCTION PROGRAMS, JUSTICE ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the ''Justice Assistance'' account) authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 (''the 1994 Act''); the Omnibus Crime Control and Safe Streets Act of 1968, as amended (''the 1968 Act''); and the Victims of Child Abuse Act of 1990, as amended (''the 1990 Act''), [$152,400,000] *$100,900,000*, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which [$6,000,000] *$4,250,000* shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; $750,000 for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; [$82,750,000] *$61,000,000* for Grants to Combat Violence Against Women *to States, units of local governments and Indian tribal governments,* as authorized by section 1001(a)(18) of the 1968 Act; $28,000,000 for Grants to Encourage Arrest Policies *to States, units of local governments and Indian tribal governments,* as authorized by section 1001(a)(19) of the 1968 Act; [$7,000,000] *$6,000,000* for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act; [$27,000,000 for grants for Residential Substance Abuse Treatment For State Prisoners, as authorized by section 1001(a)(17) of the 1968 Act;] and $900,000 for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(d) of the 1994 Act: *Provided further,* That any balances for these programs shall be transferred to and merged with this appropriation.

CIVIL LEGAL ASSISTANCE

For grants to States for civil legal assistance as provided in section 120 of this Act, $210,000,000.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, [$50,000,000] *$225,000,000*, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102–534 (106 Stat. 3524)[, which shall be available only]*: Provided, That not more than $50,000,000 shall be made available* to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs: *Provided further, That not more than $175,000,000 shall be made available to carry out the provisions of subpart 1, part E of title I of said Act, for formula grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs: Provided further,* That balances of amounts appropriated prior to fiscal year 1995 under the authorities of this account shall be transferred to and merged with this account.

VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the ''Justice Assistance'' account) authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 (''the 1994 Act''); the Omnibus Crime Control and Safe Streets Act of 1968, as amended (''the 1968 Act''); and the Victims of Child Abuse Act of 1990, as amended (''the 1990 Act''), [$3,283,343,000]

$3,092,100,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; [of which $1,950,000,000 shall be for Local Law Enforcement Block Grants, pursuant to [H.R. 728 as passed by the House of Representatives on February 14, 1995;] *of which $1,690,000,000 shall be for State and Local Law Enforcement Assistance Block Grants pursuant to title I of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by section 114 of this Act);* $25,000,000 for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; [$475,000,000] *$300,000,000* as authorized by section 1001 of title I of the 1968 Act, which shall be available to carry out the provisions of subpart 1, part E of title I of the 1968 Act, notwithstanding section 511 of said Act, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; $300,000,000 for the State Criminal Alien Assistance Program, as authorized by section 501 of the Immigration Reform and Control Act of 1986, as amended; [$19,643,000] *$15,000,000* for Youthful Offender Incarceration Grants, as authorized by section 1001(a)(16) of the 1968 Act; [$500,000,000 for Truth in Sentencing Grants pursuant to section 101 of H.R. 667 as passed by the House of Representatives on February 10, 1995 of which not to exceed $200,000,000 is available for payments to States for incarceration of criminal aliens pursuant to section 508 as proposed by such section 101;] *$750,000,000 for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by section 115 of this Act);* $1,000,000 for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; [$10,000,000] *$9,000,000* for Improved Training and Technical Automation Grants, as authorized by section 210501(c)(1) of the 1994 Act; [$200,000 for grants to assist in establishing and operating programs for the prevention, diagnosis, treatment and followup care of tuberculosis among inmates of correctional institutions, as authorized by section 32201(c)(3) of the 1994 Act; $1,000,000 for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the Omnibus Crime Control and Safe Streets Act of 1968 as added by section 210201 of the 1994 Act; $500,000] *$1,100,000* for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act; $1,000,000 for Gang Investigation Coordination and Information Collection, as authorized by section 150006 of the 1994 Act: *Provided,* That funds made available in fiscal year 1996 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions: *Provided further,* That any 1995 balances for these programs shall be transferred to and merged with this appropriation: *Provided further,* That if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement ''Weed and Seed'' program activities, $23,500,000, of which $13,500,000 shall be derived from discretionary grants provided under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs and $10,000,000 shall be derived from discretionary grants provided under part C of title II of the Juvenile Justice and Delinquency Prevention Act, to remain available until expended for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in ''Weed and Seed'' designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the ''Weed and Seed'' program strategy: *Provided,* That funds designated by Congress through language for other Department of Justice appropriation accounts for ''Weed and Seed'' program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further,* That the Attorney General may direct the use of other Department of Justice funds and personnel in support of ''Weed and Seed'' program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $144,000,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of the Act, as amended by Public Law 102–586, of which: (1) $100,000,000 shall be available for expenses authorized by parts A, B, and C of title II of the Act; (2) $10,000,000 shall be available for expenses authorized by sections 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) $10,000,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) $4,000,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) $20,000,000 shall be available for expenses authorized by title V of the Act for incentive grants for local delinquency prevention programs.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $4,500,000, to remain available until expended, as authorized by section 214B, of the Act: *Provided,* That balances of amounts appropriated prior to fiscal year 1995 under the authorities of this account shall be transferred to and merged with this account.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended, as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340), and, in addition, $2,134,000, to remain available until expended, for payments as authorized by section 1201(b) of said Act.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Subject to section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993, as amended by section 112 of this Act, authorities contained in Public Law 96–132, ''The Department of Justice Appropriation Authorization Act, Fiscal Year 1980,'' shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided,* That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 105. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided,* That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 106. Notwithstanding any other provision of law, not to exceed $10,000,000 of the funds made available in the Act may be used to pay rewards and shall not be subject to spending limitations contained in sections 3059 and 3072 of title 18, United States Code: *Provided,* That any reward of $100,000 or more, up to a maximum of $2,000,000, may not be made without the personal approval of the President or the Attorney General and such approval may not be delegated.

SEC. 107. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act, including those derived from the Violent Crime Reduction Trust Fund, may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided,* That [this section shall not apply to any appropriation made available in title I of this Act under the heading, ''Office of Justice Programs, Justice Assistance'': *Provided further,* That] any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 108. For fiscal year 1996 and each fiscal year thereafter, amounts in the Federal Prison System's Commissary Fund, Federal Prisons, which are not currently needed for operations, shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Commissary Fund.

SEC. 109. Section 524(c)(9) of title 28, United States Code, is amended by adding subparagraph (E), as follows:

''(E) Subject to the notification procedures contained in section 605 of Public Law 103–121, and after satisfying the transfer requirement in subparagraph (B) of this paragraph, any excess unobligated balance remaining in the Fund on September 30, 1995 shall be

available to the Attorney General, without fiscal year limitation, for any Federal law enforcement, litigative/prosecutive, and correctional activities, or any other authorized purpose of the Department of Justice. Any amounts provided pursuant to this subparagraph may be used under authorities available to the organization receiving the funds.''.

SEC. 110. [Notwithstanding] *Hereafter, notwithstanding* any other provision of law—

(1) no transfers may be made from Department of Justice accounts other than those authorized in this Act, or in previous or subsequent appropriations Acts for the Department of Justice, or in part II of title 28 of the United States Code, or in section 10601 of title 42 of the United States Code; and

(2) no appropriation account within the Department of Justice shall have its allocation of funds controlled by other than an apportionment issued by the Office of Management and Budget or an allotment advice issued by the Department of Justice.

SEC. 111. (a) Section 1930(a)(6) of title 28, United States Code, is amended by striking ''a plan is confirmed or''.

(b) Section 589a(b)(5) of such title is amended by striking '';'' and inserting, ''until a reorganization plan is confirmed;''.

(c) Section 589a(f) of such title is amended—

(1) in paragraph (2) by striking ''.'' and inserting, ''until a reorganization plan is confirmed;'', and

(2) by inserting after paragraph (2) the following new paragraph:

''(3) 100 percent of the fees collected under section 1930(a)(6) of this title after a reorganization plan is confirmed.''.

SEC. 112. Public Law 102–395, section 102 is amended as follows: (1) in subsection (b)(1) strike ''years 1993, 1994, and 1995'' and insert ''year 1996''; (2) in subsection (b)(1)(C) strike ''years 1993, 1994, and 1995'' and insert ''year 1996''; and (3) in subsection (b)(5)(A) strike ''years 1993, 1994, and 1995'' and insert ''year 1996''.

SEC. 113. Public Law 101–515 (104 Stat. 2112; 28 U.S.C. 534 note) is amended by inserting ''and criminal justice information'' after ''for the automation of fingerprint identification''.

SEC. 114. STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE BLOCK GRANT PROGRAM.

Title I of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''TITLE I—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

''SEC. 10001. BLOCK GRANTS TO STATES.

''(a) IN GENERAL.—The Attorney General shall make grants under this title to States for use by State and local governments to—

''(1) hire, train, and employ on a continuing basis, new law enforcement officers and necessary support personnel;

''(2) pay overtime to currently employed law enforcement officers and necessary support personnel;

''(3) procure equipment, technology, and other material that is directly related to basic law enforcement functions, such as the detection or investigation of crime, or the prosecution of criminals; and

''(4) establish and operate cooperative programs between community residents and law enforcement agencies for the control, detection, or investigation of crime, or the prosecution of criminals.

''(b) LAW ENFORCEMENT TRUST FUNDS.—Funds received by a State or unit of local government under this title may be reserved in a trust fund established by the State or unit of local government to fund the future needs of programs authorized under subsection (a).

''(c) ALLOCATION AND DISTRIBUTION OF FUNDS.—

''(1) ALLOCATION.—The amount made available pursuant to section 10003 shall be allocated as follows:

''(A) 0.6 percent shall be allocated to each of the participating States.

''(B) After the allocation under subparagraph (A), the remainder shall be allocated on the basis of the population of each State as determined by the 1990 decennial census as adjusted annually, by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this subparagraph as the population of the State bears to the population of all States.

''(2) DISTRIBUTION TO LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—A State receiving a grant under this title shall ensure that not less than 85 percent of the funds received are distributed to units of local government.

''(B) LIMITATION.—Not more than 2.5 percent of funds received by a State in any grant year shall be used for costs associated with the administration and distribution of grant money.

''(d) DISBURSEMENT.—

''(1) IN GENERAL.—The Attorney General shall issue regulations establishing procedures under which a State may receive assistance under this title.

''(2) GENERAL REQUIREMENTS FOR QUALIFICATION.—A State qualifies for a payment under this title for a payment period only if the State establishes that—

''(A) the State will establish a segregated account in which the government will deposit all payments received under this title;

''(B) the State will expend the payments in accordance with the laws and procedures that are applicable to the expenditure of revenues of the State;

''(C) the State will use accounting, audit, and fiscal procedures that conform to guidelines that shall be prescribed by the Attorney General after consultation with the Comptroller General of the United States and, as applicable, amounts received under this title shall be audited in compliance with the Single Audit Act of 1984;

''(D) after reasonable notice to a State, the State will make available to the Attorney General and the Comptroller General of the United States, with the right to inspect, records that the Attorney General or Comptroller General of the United States reasonably requires to review compliance with this title;

''(E) the State will make such reports as the Attorney General reasonably requires, in addition to the annual reports required under this title; and

''(F) the State will expend the funds only for the purposes set forth in subsection (a).

''(3) SANCTIONS FOR NONCOMPLIANCE.—

''(A) IN GENERAL.—If the Attorney General finds that a State has not complied substantially with paragraph (2) or regulations prescribed under such paragraph, the Attorney General shall notify the State. The notice shall provide that if the State does not initiate corrective action within 30 days after the date on which the State receives the notice, the Attorney General will withhold additional payments to the State for the current payment period and later payment periods. Payments shall be withheld until such time as the Attorney General determines that the State—

''(i) has taken the appropriate corrective action; and

''(ii) will comply with paragraph (2) and the regulations prescribed under such paragraph.

''(B) NOTICE.—Before giving notice under subparagraph (A), the Attorney General shall give the chief executive officer of the State reasonable notice and an opportunity for comment.

''(C) PAYMENT CONDITIONS.—The Attorney General shall make a payment to a State under subparagraph (A) only if the Attorney General determines that the State—

''(i) has taken the appropriate corrective action; and

''(ii) will comply with paragraph (2) and regulations prescribed under such paragraph.

''SEC. 10002. APPLICATIONS.

''(a) The Attorney General shall make grants under this title only if a State has submitted an application to the Attorney General in such form, and containing such information, as is the Attorney General may reasonably require.

''SEC. 10003. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title—

''(1) $2,050,000,000 for fiscal year 1996;

''(2) $2,150,000,000 for fiscal year 1997;

''(3) $1,900,000,000 for fiscal year 1998;

''(4) $1,900,000,000 for fiscal year 1999; and

''(5) $468,000,000 for fiscal year 2000.

''SEC. 10004. LIMITATION ON USE OF FUNDS.

''Funds made available to States under this title shall not be used to supplant State or local funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this title, be made available from State or local sources.''.

SEC. 115. VIOLENT OFFENDER INCARCERATION AND TRUTH IN SENTENCING GRANTS.

Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''Subtitle A—Violent Offender Incarceration and Truth in Sentencing Incentive Grants

''SEC. 20101. GRANTS FOR CORRECTIONAL FACILITIES.

''(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual States and to States organized as multi-State compacts to construct, develop, expand, modify, operate, or improve conventional correctional facilities, including prisons and jails, for the confinement of violent offenders, to ensure that prison cell space is available for the confinement of violent offenders and to implement truth in sentencing laws for sentencing violent offenders.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this subtitle, a State or States organized as multi-State compacts shall submit an application to the Attorney General that includes—

''(1)(A) except as provided in subparagraph (B), assurances that the State or States, have implemented, or will implement, correctional policies and programs, including truth in sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public;

''(B) in the case of a State that on the date of enactment of the Department of Justice Appropriations Act, 1996 practices indeterminant sentencing, a demonstration that average times served for the offenses of murder, rape, robbery, and assault in the State exceed by at least 10 percent the national average of time served for such offenses in all of the States;

''(2) assurances that the State or States have implemented policies that provide for the recognition of the rights and needs of crime victims;

''(3) assurances that funds received under this section will be used to construct, develop, expand, modify, operate, or improve conventional correctional facilities;

''(4) assurances that the State or States have involved counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation, or improvement of correctional facilities designed to ensure the incarceration of violent offenders, and that the State or States will share funds received under this section with counties and other units of local government,

taking into account the burden placed on the units of local government when they are required to confine sentenced prisoners because of overcrowding in State prison facilities;

''(5) assurances that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds;

''(6) assurances that the State or States have implemented, or will implement not later than 18 months after the date of enactment of the Department of Justice Appropriations Act, 1996, policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled; and

''(7) if applicable, documentation of the multi-State compact agreement that specifies the construction, development, expansion, modification, operation, or improvement of correctional facilities.

"SEC. 20102. TRUTH IN SENTENCING INCENTIVE GRANTS.

''(a) TRUTH IN SENTENCING GRANT PROGRAM.—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be made available for truth in sentencing incentive grants. To be eligible to receive such a grant, a State must meet the requirements of section 20101(b) and shall demonstrate that the State—

''(1) has in effect laws that require that persons convicted of violent crimes serve not less than 85 percent of the sentence imposed;

''(2) since 1993—

''(A) has increased the percentage of convicted violent offenders sentenced to prison;

''(B) has increased the average prison time that will be served in prison by convicted violent offenders sentenced to prison; and

''(C) has in effect at the time of application laws requiring that a person who is convicted of a violent crime shall serve not less than 85 percent of the sentence imposed if—

''(i) the person has been convicted on 1 or more prior occasions in a court of the United States or of a State of a violent crime or a serious drug offense; and

''(ii) each violent crime or serious drug offense was committed after the defendant's conviction of the preceding violent crime or serious drug offense; or

''(3) in the case of a State that on the date of enactment of the Department of Justice Appropriations Act, 1996 practices indeterminant sentencing, a demonstration that average times served for the offenses of murder, rape, robbery, and assault in the State exceed by at least 10 percent the national average of time served for such offenses in all of the States.

''(b) ALLOCATION OF TRUTH IN SENTENCING INCENTIVE FUNDS.—The amount available to carry out this section for any fiscal year shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the previous year bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for the previous year.

"SEC. 20103. VIOLENT OFFENDER INCARCERATION GRANTS.

''(a) VIOLENT OFFENDER INCARCERATION GRANT PROGRAM.—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be made available for violent offender incarceration grants. To be eligible to receive such a grant, a State or States must meet the requirements of section 20101(b).

''(b) ALLOCATION OF VIOLENT OFFENDER INCARCERATION FUNDS.—Funds made available to carry out this section shall be allocated as follows:

''(1) 0.6 percent shall be allocated to each eligible State, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.05 percent.

''(2) The amount remaining after application of paragraph (1) shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the previous year bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for the previous year.

"SEC. 20104. RULES AND REGULATIONS.

''(a) IN GENERAL.—Not later than 90 days after the date of enactment of the Department of Justice Appropriations Act, 1996, the Attorney General shall issue rules and regulations regarding the uses of grant funds received under this subtitle.

''(b) BEST AVAILABLE DATA.—If data regarding part 1 violent crimes in any State for the previous year is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for the previous year for the State for the purposes of allocation of funds under this subtitle.

"SEC. 20105. DEFINITIONS.

''In this subtitle—

''(1) the term 'part 1 violent crimes' means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports;

''(2) the term 'State' or 'States' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands; and

''(3) the term 'indeterminate sentencing' means a system by which the court has discretion in imposing the actual length of the sentence, up to the statutory maximum, and an administrative agency, or the court, controls release between court-ordered minimum and maximum sentence.''.

"SEC. 20106. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subtitle—

''(1) $1,000,000,000 for fiscal year 1996;

''(2) $1,150,000,000 for fiscal year 1997;

''(3) $2,100,000,000 for fiscal year 1998;

''(4) $2,200,000,000 for fiscal year 1999; and

''(5) $2,270,000,000 for fiscal year 2000.''.

SEC. 116. Notwithstanding provisions of 41 U.S.C. 353 or any other provision of law, the Federal Prison System may enter into contracts and other agreements with private entities for the confinement of Federal prisoners for a period not to exceed 3 years and 7 additional option years.

SEC. 117. Public Law 101–246 (104 Stat. 42) is amended by inserting ''or Federal Bureau of Investigation'' after ''Drug Enforcement Administration''.

SEC. 118. (a) Except as provided in subsection (b), the restrictions on the commercial sale of goods and services produced or provided by the Federal Prison Industries provided in section 1761 of title 18, United States Code, and any other provision of law shall not apply.

(b) Goods or services may not be sold commercially pursuant to subsection (a) unless the President certifies that the sale of such goods or services will not result in the loss of jobs in the private sector or adversely effect the sale of private sector goods or services sold on a local or regional basis.

(c) This section shall not be construed as authorizing the appropriations of any additional appropriations.

SEC. 119. PROVISION RELATING TO VOTER REGISTRATION.—(a) IN GENERAL.—Subsection (b) of section 4 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–2(b)) is amended by striking ''March 11, 1993'' each place it appears and inserting ''August 1, 1994''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the provisions of the National Voter Registration Act of 1993.

SEC. 120. (a) GRANTS TO STATES.—(1) The Attorney General shall make grants to States for the provision of qualified legal services. To receive a grant under this paragraph a State shall make an application to the Attorney General. Such an application shall be in such form and submitted in such manner as the Attorney General may require, except that the Attorney General shall not impose a requirement on an individual or person as a condition to bidding on a contract under subsection (b) or to being awarded such a contract which requirement is different from any other requirement of paragraph (d)(1) of this section.

(2) Grants shall be made to States in such proportion as the number of residents of each State which receives a grant who live in households having incomes equal to or less than the poverty line established under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) bears to the total number of residents in the United States living in such households: Provided, That, in States which have significant numbers of such households that are also Native American households, grants to such States shall be equal to an amount that is 140 percent of the amount such States would otherwise receive under this paragraph.

(3) Each State may in any fiscal year retain for administrative costs not more than 3 percent of the amount granted to the State under paragraph (1) in such fiscal year. The remainder of such grant shall be paid under contracts to qualified legal service providers in the State for the provision in the State of qualified legal services. If a State which has received a grant under paragraph (1) has at the end of any fiscal year funds which have not been obligated, such State shall return such funds to the Attorney General.

(4) No State may receive a grant under paragraph (1) unless the State has certified to the Attorney General that the State will comply with and enforce the requirements of this section.

(5) None of the funds provided under paragraph (1) shall be used by a qualified legal service provider—

(A) to make available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal or represent any party or participate in any other way in litigation, that is intended to or has the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government, including influencing the timing or manner of the taking of a census;

(B) to attempt to influence the issuance, amendment, or revocation of any executive order, regulation, policy or similar promulgation by any Federal, State, or local agency;

(C) to attempt to influence the passage or defeat of any legislation, constitutional amendment, referendum, initiative, confirmation proceeding, or any similar procedure of the Congress of the United States or by any State or local legislative body;

(D) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or anti-labor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities;

(E) to participate in any litigation, lobbying, rulemaking or any other matter with respect to abortion;

(F) to provide legal assistance to an eligible client with respect to a proceeding or litigation in which the client seeks to obtain a dissolution of a marriage or a legal separation from a spouse;

(G) to participate in any litigation or provide any representation on behalf of a local, State, or Federal prisoner;

(H) to solicit in-person any client for the purpose of providing any legal service;

(I) to pay for any personal service, advertisement, telegram, telephone communication, letter, or printed or written matter or to pay administrative expenses or related expenses, associated with an activity prohibited in this paragraph;

(J) to pay any voluntary membership dues to any private or non-profit organization; or

(K) to provide any subgrants for the provision of qualified legal services.

(6) A State which receives a grant under paragraph (1) and which also distributes State funds for the provision of legal services or which permits the distribution of interest on lawyers' trust accounts for the provision of legal services shall require that such State funds and such interest on lawyers' trust accounts be used to provide qualified legal services to qualified clients and shall impose on the use of such State funds and such interest on lawyers' trust accounts the limitations prescribed by paragraph (5).

(7) A qualified legal service provider of any qualified client or any client of such provider may not claim or collect attorneys' fees from parties to any litigation initiated by such client.

(b) AWARDING OF CONTRACTS.—(1) Each State which receives a grant under subsection (a)(1) shall make funds under the grant available for contracts entered into for the provision of qualified legal services within the State.

(2)(A) The Governor of each State shall designate the authority of the State which shall be responsible for soliciting and awarding bids for contracts for the provision of qualified legal services within such State.

(B) The authority of a State designated under subparagraph (A) shall designate service areas within the State. Such service areas shall be the counties or parishes within a State but such authority may combine contiguous counties or parishes to form a service area to assure the most efficient provision of qualified legal services within available funds.

(3) A State shall allocate grant funds for contracts for the provision of qualified legal services in a service area on the same basis as grants are made available to States under subsection (a)(2).

(4) A State shall award a contract for the provision of qualified legal services in a service area to the applicant who is best qualified, as determined by the State, and who in its bid offers to provide, in accordance with subsection (c), the greatest number of hours of qualified legal services in such area.

(5) A State contract awarded under paragraph (4) shall be in such form as the State requires. The contract shall provide for the rendering of bills supported by time records at the close of each month in which qualified legal services are provided. A State shall make payment to a qualified legal service provider at the contact rate only for hours of qualified legal services provided and supported by appropriate records. The contract rate shall be the total dollar amount of the contract divided by the total hours bid by the qualified legal service provider. A State shall have 60 days to make full payment of such bills.

(c) REQUIREMENTS FOR THE PROVISION OF QUALIFIED LEGAL SERVICES UNDER A CONTRACT.—(1) The term of a contract entered into under subsection (b) shall be not more than 1 year.

(2) A qualified legal service provider shall service the legal needs of qualified clients under a contract entered into under subsection (b) in a professional manner consistent with applicable law.

(3) A qualified legal service provider shall maintain a qualified client's case file, including any pleadings and research, at least until the later of 5 years after the resolution of client's cause of action or 5 years after the termination of the contract under which services were provided to such client.

(4) A qualified legal service provider shall keep daily time records of the provision of services to a qualified client in one tenth of an hour increments identifying such client, the general nature of the work performed in each increment, and the account which will be charged for such work.

(5) Each qualified client shall be provided a self-mailing customer satisfaction questionnaire in a form approved by the authority granting the contract under subsection (b) which identifies the qualified legal service provider and is preaddressed to such authority.

(6) Any qualified client who receives legal services other than advice or legal services provided by mail or telephone shall execute with respect to such services a waiver of attorney client and attorney work product privilege as a condition to receiving such service. The waiver shall be limited to the extent necessary to determine the quantity and quality of the service rendered by the qualified legal service provider.

(7) A qualified legal service provider shall make and maintain records detailing the basis upon which the provider determined the qualifications of qualified clients. Such records shall be made and maintained for 5 years following the termination of a contract under subsection (b) for the provision of legal services to such clients.

(8) A qualified legal service provider shall consent to audits by the General Accounting Office, the Attorney General, and the authority which awarded a contract to such provider. Any such audit may be conducted at the provider's principal place of business. Such an audit shall be limited to a determination of whether such provider is meeting the requirements of this Act and the provider's contract under subsection (b). In addition, a qualified legal service provider shall conduct an annual financial audit by a qualified certified public accountant which encompasses the entire term of a contract awarded under subsection (b), and shall transmit a report of such audit to the authority which awarded a contract to such provider within 60 days of the termination of such contract.

(9) A contract awarded under subsection (b) shall require that all funds received by the qualified legal services provider from any source be used exclusively to provide qualified legal services to qualified clients and shall impose on the use of such funds the limitations prescribed by paragraph (a)(5).

(10) The authority which awarded a contract shall terminate a qualified legal service provider who fails to abide by the terms of this section. A breach of contract by a qualified legal service provider shall require the authority to terminate the contract, to award a new contract to a different qualified legal services provider, and to recover any funds improperly expended by the provider, together with reasonable attorneys' fees and interest at the statutory rate in the State for interest on judgments. If such a breach was willful, the provider shall pay to the authority which awarded the contract additional damages equal to the one half of the amount improperly expended by the provider.

(d) For purposes of this section:

(1)(A) The term ''qualified legal service provider'' means—

(i) any individual who is licensed to practice law in a State for not less than 3 calendar years, who has practiced law in such State not less than 3 calendar years, and who is so licensed during the period of a contract under subsection (b); or

(ii) a person who employs an individual described in clause (i) to provide qualified legal services.

Nothing in this subparagraph shall be interpreted to prohibit a qualified legal service provider from employing an individual who is not described in clause (i) to assist in providing qualified legal services.

(B) No individual shall be considered a qualified legal service provider if such individual during the 10 years preceding the submission of a bid for a contract under subsection (b)—

(i) has been convicted of a felony;

(ii) has been suspended or disbarred from the practice of law for misconduct, incompetence, or neglect of a client in any State;

(iii) has been found in contempt of a court of competent jurisdiction in any State or Federal court;

(iv) has been sanctioned under Federal Rule of Civil Procedure 11 or an equivalent State rule of procedure applicable in civil actions;

(v) has been sanctioned by the Legal Services Corporation; or

(vi) is a subgrantee of a qualified legal services provider; or if such individual has a criminal charge pending on the date of the submission of a bid for a contract under subsection (b).

(C) No State may impose a requirement on an individual or person as a condition to bidding on a contract under subsection (b) or to being awarded such a contract which requirement is different from any other requirement of this paragraph.

(2) The term ''qualified legal services'' means—

(A) mediation, negotiation, arbitration, counseling, advice, instruction, referral, or representation, and

(B) legal research or drafting in support of the services described in subparagraph (A), provided by or under the supervision of a qualified legal service provider to a qualified client for a qualified cause of action.

(3) The term ''qualified client'' means any individual who is a United States citizen or an alien admitted for permanent residence prior to the date of enactment of this Act who resides in a household the income of which from any source, which was received or held for the benefit of a member of the household, was equal to or less than the poverty line established under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). The term ''household'' means a dwelling occupied by at least one adult.

(4)(A) The term ''qualified cause of action'' means only a civil cause of action which results only from—

(i) landlord and tenant disputes, including an eviction from housing except an eviction where the prima facie case for the eviction is based on criminal conduct, including the harboring of a nuisance who has engaged in criminal conduct;

(ii) foreclosure of a debt on a qualified client's residence;

(iii) the filing of a petition under chapter 7 or 12 of title 11, United States Code, or under chapter 13 of such title unless a petition of eviction has preceded the filing of such petition;

(iv) enforcement of a debt;

(v) enforcement of child support orders;

(vi) action to quiet title;

(vii) spousal or child abuse on behalf of the abused party;

(viii) an insurance claim;

(ix) competency hearing; or

(x) probate.

(B) Such term does not include—

(i) a class action under Federal, State, or local law; or

(ii) any challenge to the constitutionality of any statute.

(5) The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States and includes any recognized governing body of an Indian Tribe or Alaskan Native Village that carries out substantial governmental powers and duties.

(e)(1) The Legal Services Corporation Act (42 U.S.C. 2996 et seq.) is repealed.

(2) The assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection

with the Legal Services Corporation shall be transferred to Office of the Attorney General.

This title may be cited as the ''Department of Justice Appropriations Act, 1996''.

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

TRADE AND INFRASTRUCTURE DEVELOPMENT

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, [$20,949,000] *$20,889,000*, of which $2,500,000 shall remain available until expended: *Provided*, That not to exceed $98,000 shall be available for official reception and representation expenses.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, [$42,500,000] *$34,000,000*, to remain available until expended.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; [$264,885,000] *$219,579,000*, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to 15 U.S.C. 4912; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; [$38,644,000] *$30,504,000*, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, [and for trade adjustment assistance, $328,500,000] *$89,000,000*: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further*, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, [$20,000,000] *$11,000,000*: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

[For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $32,000,000.]

Of the unobligated balances contained in this account, $1,000,000 shall be transferred to the Commerce Reorganization Transition Fund.

[UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

[SALARIES AND EXPENSES

[For necessary expenses of the United States Travel and Tourism Administration for participation in the White House Conference on Travel and Tourism, $2,000,000, to remain available until December 31, 1995: *Provided*, That none of the funds appropriated by this paragraph shall be available to carry out the provisions of section 203(a) of the International Travel Act of 1961, as amended.]

ECONOMIC AND INFORMATION INFRASTRUCTURE

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, [$40,000,000] *$57,220,000*, to remain available until September 30, 1997.

ECONOMICS AND STATISTICS ADMINISTRATION REVOLVING FUND

The Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by 15 U.S.C. 1525–1527 and, notwithstanding 15 U.S.C. 4912, charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account, to be available for carrying out these purposes without further appropriation.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, [$136,000,000] *$144,812,000*.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, [$135,000,000] *$193,450,000*, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, [$19,709,000] *$5,000,000*, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for *spectrum management, analysis, and operations and for* all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA in furtherance of its assigned functions under this paragraph and such funds received from other Government agencies shall remain available until expended.

(TRANSFER OF FUNDS)

For spectrum management, $9,000,000 shall be made available until expended to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

PUBLIC BROADCASTING FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, [$19,000,000] *$10,000,000*, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $2,200,000 shall be available for program administration as authorized by section 391 of the Act: *Provided further*, That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

[INFORMATION INFRASTRUCTURE GRANTS

[For grants authorized by section 392 of the Communications Act of 1934, as amended, $40,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $4,000,000 shall be available for program administration and other support activities as authorized by section 391 of the Act including support of the Advisory Council on National Information Infrastructure: *Provided further*, That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: *Provided further*, That notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety or other social services.]

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; [$90,000,000] *$56,324,000*, to remain available until expended: *Provided*, That the funds made available under this heading are to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: *Provided further*, That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, shall remain available until expended.

SCIENCE AND TECHNOLOGY

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, [$263,000,000] *$222,737,000*, to remain available until expended, of which not to exceed $8,500,000 may be transferred to the ''Working Capital Fund''.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology *and the Advanced Technology Program*, [$81,100,000] *$76,600,000*, to remain available until expended, of which not to exceed $500,000 may be transferred to the ''Working Capital Fund'': *Provided*, That none of the funds made available under this heading in this or any other Act may be used for the purposes of carrying out additional program competitions under the Advanced Technology Program: *Provided further*, That any unobligated balances available from carryover of prior year appropriations under the Advanced Technology Program may be used only for the purposes of providing continuation grants.

CONSTRUCTION OF RESEARCH FACILITIES

For [construction of new research facilities, including architectural and engineering design, and for] renovation of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, [$60,000,000] *$24,000,000*, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; not to exceed 358 commissioned officers on the active list; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; [$1,724,452,000] *$1,809,092,000*, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 3302 but consistent with other existing law, fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering aeronautical charting programs: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such additional fees are received during fiscal year 1996, so as to result in a final general fund appropriation estimated at not more than [$1,721,452,000] *$1,806,092,000*: *Provided further*, That any such additional fees received in excess of $3,000,000 in fiscal year 1996 shall not be available for obligation until October 1, 1996: *Provided further*, That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*, That in addition, [$57,500,000] *$55,500,000* shall be derived by transfer from the fund entitled ''Promote and Develop Fishery Products and Research Pertaining to American Fisheries'': *Provided further*, That grants to States pursuant to sections 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to 16 U.S.C. 1456a, not to exceed $7,800,000, for purposes set forth in 16 U.S.C. 1456a(b)(2)(A), 16 U.S.C. 1456a(b)(2)(B)(v), and 16 U.S.C. [1461(c)] *1461(e)*.

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, [$42,731,000] *$50,000,000*, to remain available until expended.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

For expenses necessary for the repair[, acquisition, leasing, or conversion] of vessels, including related equipment to maintain [and modernize] the existing fleet [and to continue planning the modernization of the fleet,] for the National Oceanic and Atmospheric Administration, $8,000,000, to remain available until expended.

FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND

For carrying out the provisions of section 3 of Public Law 95–376, not to exceed $1,032,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $999,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627) and the American Fisheries Promotion Act (Public Law 96–561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $196,000, to remain available until expended.

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $250,000: Provided, That none of the funds made available under this heading may be used to guarantee loans for the purchase of any new or existing fishing vessel.

[TECHNOLOGY ADMINISTRATION

[UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

[SALARIES AND EXPENSES

[For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, $5,000,000.]

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $29,100,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $21,849,000.

COMMERCE REORGANIZATION TRANSITION FUND

For deposit in the Commerce Reorganization Transition Fund established under section 206(c)(1) of this Act for use in accordance with section 206(c)(4) of this Act, $52,000,000, in addition to amounts made available by transfer, which amount shall remain available until expended: Provided, That of these funds $4,000,000 shall be remitted to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made

available to the Department of Commerce shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. CONSOLIDATION OF FUNCTIONS OF COMMERCE DEPARTMENT.

(a) CONSOLIDATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Director of the Office of Management and Budget shall, in consultation with the Secretary of Commerce—

(A) abolish, reorganize, consolidate, or transfer such functions that either receive funding or are eliminated under this title as the Director considers appropriate in order to meet the requirements and limitations set forth in this title; and

(B) terminate or transfer such personnel associated with such functions as the Director considers appropriate in order to meet such requirements and limitations.

(2) TRANSITION RULES.—The Director of the Office of Management and Budget shall establish such rules and procedures relating to the abolishment, reorganization, consolidation, or transfer of functions under this subsection as the Director considers appropriate, including rules and procedures relating to the rights and responsibilities of personnel of the Government terminated, transferred, or otherwise affected by such the abolishment, reorganization, consolidation, or transfer.

(b) BUY OUT AUTHORITY.—

(1) IN GENERAL.—The Secretary of Commerce may, for such officers and employees as the Secretary considers appropriate as part of the activities of the Secretary under subsection (a), authorize a payment to officers and employees who voluntarily separate on or before December 15, 1995, whether by retirement or resignation.

(2) PAYMENT REQUIREMENT.—Payment under paragraph (1) shall be paid in accordance with the provisions of sections 3 and 4 of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 111), except that an employee of the agency shall be deemed to be eligible for payment of a voluntary separation incentive payment under that section if the employee separates from service with the agency during the period beginning on the date of enactment of this Act and ending on December 15, 1995.

(3) FUNDING.—

(A) IN GENERAL.—The payment of voluntary separation incentive payments under this subsection shall be made from funds in the Commerce Reorganization Transition Fund established under subsection (c).

(B) PAYMENT DEPENDENT ON FUNDING.—The Secretary of Commerce may not pay voluntary separation incentive payments under this subsection unless sufficient funds are available in the Commerce Reorganization Fund to cover the cost of such payments and the costs of any other payments (including payments or deposits to retirement systems) required in relation to such payments.

(c) COMMERCE REORGANIZATION TRANSITION FUND.—

(1) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the ''Commerce Reorganization Transition Fund''.

(2) PURPOSE.—The purpose of the account is to provide funds for the following:

(A) To cover the costs of actions relating to the abolishment, reorganization, consolidation, or transfer of functions under subsection (a).

(B) To the cover the costs of the payment of payments under subsection (b), including any payments or deposits to retirement systems required in relation to such payment.

(3) DEPOSITS.—There shall be deposited into the account such sums as may be appropriated or transferred to the account.

(4) USE OF FUNDS.—Sums in the account shall be available for the purpose set forth in paragraph (2).

(5) REPORT ON ACCOUNT.—Not later than October 1, 1997, the Secretary of Commerce shall transmit to the Committees on Appropriations and Commerce, Science, and Transportation of the Senate and the Committees on Appropriations and Government Reform and Oversight of the House of Representatives a report containing an accounting of the expenditures from the account established under this subsection.

This title may be cited as the ''Department of Commerce and Related Agencies Appropriations Act, 1996''.

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve, $25,834,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $3,313,000, of which [$500,000] *$565,000* shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, [$14,070,000] *$14,288,000.*

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $10,859,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, [$2,409,024,000] *$2,471,195,000* (including the purchase of firearms and ammunition); of which not to exceed $13,454,000 shall remain available until expended for space alteration projects; of which not to exceed $10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,318,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

VIOLENT CRIME REDUCTION PROGRAMS

For activities of the Federal Judiciary as authorized by law, [$41,500,000] *$30,000,000,* to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as authorized by section 190001(a) of Public Law 103–322.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), [$260,000,000] *$274,433,000,* to remain available until expended as authorized by 18 U.S.C. 3006A(i): *Provided,* That none of the funds provided in this Act shall be available for Death Penalty Resource Centers or Post-Conviction Defender Organizations *after April 1, 1996.*

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $59,028,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); [$109,724,000] *$102,000,000,* to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering

elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $47,500,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, [$18,828,000] *$17,000,000*; of which $1,800,000 shall remain available through September 30, 1997, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $24,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $7,000,000, and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $1,900,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, [$8,500,000] *$7,040,000*, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93–236.

SEC. 303. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 304. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided*, That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

This title may be cited as ''The Judiciary Appropriations Act, 1996''.

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration [$1,716,878,000] *$1,552,165,000*: *Provided*, That starting in fiscal year 1997, a system shall be in place that allocates to each department and agency the full cost of its presence outside of the United States.

Of the funds provided under this heading, $24,856,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and not to exceed $17,144,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service (DTS), except that such latter amount shall not be available for obligation until the expiration of the 15-day period beginning on the date on which the Secretary of State and the Director of the Diplomatic Telecommunications Service Program Office submit the DTS pilot program report required by section 507 of Public Law 103–317.

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717; and in addition not to exceed $1,223,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553, as amended by section 120 of Public Law 101–246); and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, ''Diplomatic and Consular Programs'' and ''Salaries and Expenses'' under the heading ''Administration of Foreign Affairs'' may be transferred between such appropriation accounts: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

For an additional amount for security [enhancement] *enhancements*, to counter the threat of terrorism, $9,720,000, to remain available until expended.

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, [$363,276,000] *$335,276,000*.

For an additional amount for security enhancements to counter the threat of terrorism, $1,870,000, to remain available until expended.

FOREIGN AFFAIRS REORGANIZATION TRANSITION FUND

For deposit in the Foreign Affairs Reorganization Transition Fund established under section 404(c)(1) of this Act for use in accordance with section 404(c)(4) of this Act, $26,000,000 to remain available until expended: Provided, That of these funds, $3,000,000 shall be remitted to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund: Provided further, That of these funds $1,000,000 shall be remitted to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Foreign Service Retirement and Disability Fund.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, [$16,400,000] *$8,200,000*, to remain available until expended, as authorized in Public Law 103–236: *Provided*, That section 135(e) of Public Law 103–236 shall not apply to funds appropriated under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), [$27,669,000] *$27,350,000*: *Provided*, That notwithstanding any other provision of law, (1) the Office of the Inspector General of the United States Information Agency is hereby merged with the Office of the Inspector General of the Department of State; (2) the functions exercised and assigned to the Office of the Inspector General of the United States Information Agency before the effective date of this Act (including all related functions) are transferred to the Office of the Inspector General of the Department of State; and (3) the Inspector General of the Department of State shall also serve as the Inspector General of the United States Information Agency.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), [$4,780,000] *$4,500,000*.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $8,579,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), [$391,760,000] *$369,860,000*, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $6,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed

$1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $593,000, as authorized by 22 U.S.C. 2671: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $183,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $15,165,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $125,402,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, **[**$858,000,000**]** *$550,000,000*: *Provided,* That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further,* That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under section 401(b) of Public Law 103–236 for fiscal year 1996: *Provided further,* That certification under section 401(b) of Public Law 103–236 for fiscal year 1996 may only be made if the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives are notified of the steps taken, and anticipated, to meet the requirements of section 401(b) of Public Law 103–236 at least 15 days in advance of the proposed certification: *Provided further,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, **[**$425,000,000**]** *$250,000,000*: *Provided,* That none of the funds made available under this Act may be used, and shall not be available, for obligation or expenditure for any new or expanded United Nations peacekeeping mission unless, at least fifteen days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable), (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate Committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further,* That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $3,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, **[**$12,358,000**]** *$11,500,000.*

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, **[**$6,644,000**]** *$8,000,000,* to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; **[**$5,800,000**]** *$5,550,000,* of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,669,000: *Provided,* That the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

[PAYMENT TO THE ASIA FOUNDATION

[For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, $10,000,000 to remain available until expended as authorized by 22 U.S.C. 2696(c).**]**

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided,* That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. Funds appropriated or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner.

SEC. 404. CONSOLIDATION OF REDUNDANT FOREIGN RELATIONS FUNCTIONS.

(a) CONSOLIDATION OF FUNCTIONS.—

(1) CONSOLIDATION OF FUNCTIONS OF STATE DEPARTMENT, USIA, AND ACDA.—Notwithstanding any other provision of law, the Director of the Office of Management and Budget shall, in consultation with the Secretary of State, the Director of the United States Information Agency and the Director of the Arms Control and Disarmament Agency—

(A) identify the functions carried out by the Department of State, by the United States Information Agency, and the Arms Control and Disarmament Agency that are redundant by reason of being carried out, in whole or in part, by two or more of these entities; and

(B) take appropriate actions to eliminate the redundancy in such functions.

(2) SCOPE OF CONSOLIDATION.—In carrying out the requirements of paragraph (1), the Director of the Office of Management and Budget may provide for the discharge of functions of the entities referred to in such paragraph by a single office within one of the entities.

(3) ADDITIONAL CONSOLIDATION AUTHORITY.—In addition to the actions under paragraphs (1) and (2), the Director of the Office of Management and Budget may also carry out such other actions to consolidate and reorganize the functions of the Department of State, the United States Information Agency, and the United States Arms Control and Disarmament Agency as the Director and the heads of such entities consider appropriate to ensure the effective and efficient discharge of the responsibilities of such entities.

(4) ACTIONS AUTHORIZED.—The actions that the Director of the Office of Management and Budget may take under this subsection include the following:

(A) The abolishment, reorganization, consolidation, or transfer of functions (in whole or in part).

(B) The termination or transfer of the personnel associated with functions so abolished, reorganized, consolidated, or transferred.

(5) TRANSITION RULES.—The Director of the Office of Management and Budget shall establish such rules and procedures relating to the

consolidation of foreign relations functions under this subsection as the Director considers appropriate, including rules and procedures relating to the rights and responsibilities of personnel of the Government terminated, transferred, or otherwise affected by actions to carry out the consolidation.

(b) VOLUNTARY SEPARATION INCENTIVES.—

(1) AUTHORITY TO PAY INCENTIVES.—The head of an agency referred to in paragraph (2) may pay voluntary incentive payments to employees of the agency in order to avoid or minimize the need for involuntary separations from the agency as a result of the consolidation of foreign relations functions under subsection (a).

(2) COVERED AGENCIES.—Paragraph (1) applies to the following agencies:

(A) The Department of State.

(B) The United States Information Agency.

(C) The United States Arms Control and Disarmament Agency.

(3) PAYMENT REQUIREMENTS.—

(A) IN GENERAL.—The head of an agency referred to in paragraph (2) shall pay voluntary separation incentive payments under this subsection in accordance with the provisions of sections 3 and 4 of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 111), except that an employee of the agency shall be deemed to be eligible for payment of a voluntary separation incentive payment under that section if the employee separates from service with the agency during the period beginning on the date of enactment of this Act and ending on December 15, 1995.

(B) SUBSEQUENT EMPLOYMENT WITH GOVERNMENT.—The provisions of subsection (d) of such section 3 shall apply to any employee who is paid a voluntary separation incentive payment under this subsection.

(4) FUNDING.—

(A) IN GENERAL.—The payment of voluntary separation incentive payments under this subsection shall be made from funds in the Foreign Affairs Reorganization Transition Fund established under subsection (c).

(B) EXERCISE OF AUTHORITY DEPENDENT ON FUNDING.—The head of an agency may not pay voluntary separation incentive payments under this subsection unless sufficient funds are available in the Foreign Affairs Reorganization Fund to cover the cost of such payments and the costs of any other payments (including payments or deposits to retirement systems) required in relation to such payments.

(5) TERMINATION OF AUTHORITY.—The authority of the head of an agency to authorize payment of voluntary separation incentive payments under this subsection shall expire on December 15, 1995.

(c) FOREIGN AFFAIRS REORGANIZATION TRANSITION FUND.—

(1) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the ''Foreign Affairs Reorganization Transition Fund''.

(2) PURPOSE.—The purpose of the account is to provide funds for the following:

(A) To cover the costs of actions relating to the consolidation of redundant foreign relations functions that are taken under subsection (a).

(B) To the cover the costs to the Government of the payment of voluntary separation incentive payments under subsection (b), including any payments or deposits to retirement systems required in relation to such payment.

(3) DEPOSITS.—There shall be deposited into the account such sums as may be appropriated to the account.

(4) USE OF FUNDS.—Sums in the account shall remain available until expended for the purpose set forth in paragraph (2).

(5) REPORT ON ACCOUNT.—Not later than November 15, 1996, the Secretary of State shall transmit to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a report containing an accounting of—

(A) the expenditures from the account established under this subsection; and

(B) in the event of any transfer of funds to the Department of State under paragraph (5), the functions for which the funds so transferred are to be expended.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, [$40,000,000] *$22,700,000*, of which not to exceed $50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); [$445,645,000] *$420,000,000*: *Provided,* That not to exceed $1,400,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further,* That not to exceed $7,615,000 to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That not to exceed $1,700,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

TECHNOLOGY FUND

For expenses necessary to enable the United States Information Agency to provide for the procurement of information technology improvements, as authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), [$5,050,000] *$3,050,000*, to remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), [$192,090,000] *$190,000,000*, to remain available until expended as authorized by 22 U.S.C. 2455.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–05), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1996, to remain available until expended: *Provided,* That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1996, to remain available until expended.

AMERICAN STUDIES COLLECTIONS ENDOWMENT FUND

For necessary expenses of American Studies Collections as authorized by section 235 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, all interest and earnings accruing to the American Studies Collections Endowment Fund on or before September 30, 1996, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, [the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act,] the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities; [$341,000,000] *$330,191,000*, of which $5,000,000 shall remain available until expended, not to exceed $16,000 may be used for official receptions within the United States as authorized by 22 U.S.C. 1474(3), not to exceed $35,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085, and not to exceed $39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, not to exceed $250,000 from fees as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended, to remain available until expended for carrying out authorized purposes[: *Provided,* That funds provided for broadcasting to Cuba may be used for the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception].

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International Broadcasting Act of 1994, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $24,809,000 to remain available until expended: Provided, That funds may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, [$70,164,000] *$40,000,000*, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $10,000,000: Provided, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $1,000,000, to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended.

This title may be cited as the ''Department of State and Related Agencies Appropriations Act, 1996''.

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $162,610,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, [$64,600,000] *$68,600,000*, to remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels that are currently collected and retained by the Maritime Administration, to be used for facility and ship maintenance, modernization and repair, conversion, acquisition of equipment, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and State maritime academies: *Provided further*, That reimbursements may be made to this appropriation from receipts to the ''Federal Ship Financing Fund'' for administrative expenses in support of that program in addition to any amount heretofore appropriated.

MARITIME GUARANTEED LOAN (TITLE XI)

PROGRAM ACCOUNT

[For the cost of guaranteed loans, as authorized by the Merchant Marine Act of 1936, $48,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,000,000,000.

[In addition, for] *For* administrative expenses to carry out the guaranteed loan program, not to exceed [$4,000,000] *$2,000,000*, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $206,000, as authorized by Public Law 99–83, section 1303.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, [$8,500,000] *$9,000,000*: *Provided*, That not to exceed $50,000 may be used to employ consultants: *Provided further*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairperson who is permitted 125 billable days.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, [$2,377,000] *$1,894,000*, to remain available until expended.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $1,090,000, to remain available until expended as authorized by section 3 of Public Law 99–7.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; not to exceed $26,500,000, for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $233,000,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–02; not to exceed $600,000 for land and structures; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed sixteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; [$185,232,000] *$166,185,000*, of which not to exceed $300,000 shall remain available until September 30, 1997, for research and policy studies: *Provided*, That $116,400,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1996 so as to result in a final fiscal year 1996 appropriation estimated at [$68,832,000] *$49,785,000*: *Provided further*, That any offsetting collections received in excess of $116,400,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; [$15,000,000] *$14,855,000*: *Provided*, That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; [$82,928,000] *$63,142,000*: *Provided*, That *not to exceed $3,000,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: Provided further, That* notwithstanding any other provision of law, not to exceed $48,262,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and

shall remain available until expended: *Provided further,* That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from the General Fund estimated at not more than [$34,666,000] *$14,880,000,* to remain available until expended: *Provided further,* That any fees received in excess of $48,262,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996: *Provided further,* That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285).

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94–118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,247,000; and an amount of Japanese currency not to exceed the equivalent of $1,420,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94–118.

[LEGAL SERVICES CORPORATION

[PAYMENT TO THE LEGAL SERVICES CORPORATION

[For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $278,000,000 of which $265,000,000 is for basic field programs; $8,000,000 is for the Office of the Inspector General, of which $5,750,000 shall be used to contract with independent auditing agencies for annual financial and program audits of all grantees in accordance with Office of Management and Budget Circular A–133; and $5,000,000 is for management and administration.

[ADMINISTRATIVE PROVISIONS—LEGAL SERVICES CORPORATION

[SEC. 501. Funds appropriated under this Act to the Legal Services Corporation shall be distributed as follows:

[(1) The Corporation shall define geographic areas and funds available for each geographic area shall be on a per capita basis pursuant to the number of poor people determined by the Bureau of the Census to be within that geographic area: *Provided,* That funds for a geographic area may be distributed by the Corporation to one or more persons or entities eligible for funding under section 1006(a)(1)(A) of the Legal Services Corporation Act, subject to sections 502 and 504 of this Act.

[(2) The amount of the grants from the Corporation and of the contracts entered into by the Corporation in accordance with paragraph (1) shall be an equal figure per poor person for all geographic areas, based on the most recent decennial census of population conducted pursuant to section 141 of title 13, United States Code.

[SEC. 502. None of the funds appropriated in this Act to the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for the provision of legal assistance unless the Corporation ensures that the person or entity receiving funding to provide such legal assistance is—

[(1) a private attorney or attorneys admitted to practice in one of the States or the District of Columbia;

[(2) a qualified nonprofit organization chartered under the laws of one of the States or the District of Columbia, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which is comprised of attorneys who are admitted to practice in one of the States or the District of Columbia and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance;

[(3) a State or local government (without regard to section 1006(a)(1)(A)(ii) of the Legal Services Corporation Act); or

[(4) a substate regional planning or coordination agency which is composed of a substate area whose governing board is controlled by locally elected officials.

[SEC. 503. None of the funds appropriated in this Act to the Legal Services Corporation for grants or contracts to basic field programs may be obligated unless such grants or contracts are awarded on a competitive basis: *Provided,* That not later than sixty days after enactment of this Act, the Legal Services Corporation shall promulgate regulations to implement a competitive selection process: *Provided further,* That such regulations shall include, but not be limited to, the following selection criteria:

[(1) The demonstration of a full understanding of the basic legal needs of the eligible clients to be served and a demonstration of the capability of serving those needs.

[(2) The quality, feasibility, and cost effectiveness of plans submitted by the applicant for the delivery of legal assistance to the eligible clients to be served.

[(3) The experiences of the Corporation with the applicant, if the applicant has previously received financial assistance from the Corporation, including the applicant's record of past compliance with Corporation policies, practices, and restrictions:

Provided further, That, such regulations shall ensure that timely notice for the submission of applications for awards is published in periodicals of local and State bar associations and in at least one daily newspaper of general circulation in the area to be served by the person or entity receiving the award: *Provided further,* No person or entity that was previously awarded a grant or contract by the Legal Services Corporation for the provision of legal assistance may be given any preference in the competitive selection process: *Provided further,* That for the purposes of the funding provided in this Act, rights under sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(9) and 42 U.S.C. 2996j) shall not apply.

[SEC. 504. None of the funds appropriated in this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity—

[(1) that makes available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or represents any party or participates in any other way in litigation, that is intended to or has the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government, including influencing the timing or manner of the taking of a census;

[(2) that attempts to influence the issuance, amendment, or revocation of any executive order, regulation, or similar promulgation by any Federal, State, or local agency;

[(3) that attempts to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a grantee to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities, and which does not involve the issuance, amendment, or revocation of any agency promulgation described in paragraph (2);

[(4) that attempts to influence the passage or defeat of any legislation, constitutional amendment, referendum, initiative, or any similar procedure of the Congress of the United States, or by any State or local legislative body;

[(5) that attempts to influence the conduct of oversight proceedings of the Corporation or any person or entity receiving financial assistance provided by the Corporation;

[(6) that pays for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, administrative expenses, or related expenses, associated with an activity prohibited in paragraph (1), (2), (3), (4), or (5);

[(7) that brings a class action suit against the Federal Government or any State or local government;

[(8) that files a complaint or otherwise pursues litigation against a defendant, or engages in precomplaint settlement negotiations with a prospective defendant, unless—

[(A) all plaintiffs have been specifically identified, by name, in any complaint filed for purposes of litigation; and

[(B) a statement or statements of facts written in English and, if necessary, in a language which the plaintiffs understand, which enumerate the particular facts known to the plaintiffs on which the complaint is based, have been signed by the plaintiffs (including named plaintiffs in a class action), are kept on file by the person or entity provided financial assistance by the Corporation, and are made available to any Federal department or agency that is auditing the activities of the Corporation or of any recipient, and to any auditor receiving Federal funds to conduct such auditing, including any auditor or monitor of the Corporation:

Provided, That upon establishment of reasonable cause that an injunction is necessary to prevent probable, serious harm to such potential plaintiff, a court of competent jurisdiction may enjoin the disclosure of the identity of any potential plaintiff pending the outcome of such litigation or negotiations after notice and an opportunity for a hearing is provided to potential parties to the litigation or the negotiations: *Provided further,* That other parties shall have access to the statement of facts referred to in subparagraph (B) only through the discovery process after litigation has begun;

[(9) unless, after January 1, 1996, and prior to the provision of financial assistance—

[(A) the governing board of a person or entity receiving financial assistance provided by the Legal Services Corporation has set specific priorities in writing, pursuant to section 1007(a)(2)(C)(i) of the Legal Services Corporation Act, of the types of matters and cases to which the staff of the nonprofit organization shall devote its time and resources; and

[(B) the staff of such person or entity receiving financial assistance provided by the Legal Services Corporation has signed a written agreement not to undertake cases or matters other than in accordance with the specific priorities set by such governing board, except in emergency situations defined by such board and in accordance with such board's written procedures for such situations:

Provided, That the staff of such person or entity receiving financial assistance provided by the Legal Services Corporation shall provide to their respective governing board on a quarterly basis, and to the Corporation on an annual basis, all cases undertaken other than those in accordance with such priorities: *Provided further,* That not later than 30

days after enactment of this Act, the Corporation shall promulgate a suggested list of priorities which boards of directors may use in setting priorities under this paragraph;

[(10) unless, prior to receiving financial assistance provided by the Legal Services Corporation, such person or entity agrees to maintain records of time spent on each case or matter with respect to which that person or entity is engaged in activities: *Provided,* That any non-Federal funds received by any person or entity provided financial assistance by the Corporation shall be accounted for and reported as receipts and disbursements separate and distinct from Corporation funds: *Provided further,* That such person or entity receiving financial assistance provided by the Corporation agrees (notwithstanding section 1009(d) of the Legal Services Corporation Act) to make such records described in this paragraph available to any Federal department, or agency or independent auditor receiving Federal funds to conduct an audit of the activities of the Corporation or recipient receiving funding under this Act;

[(11) that provides legal assistance for or on behalf of any alien, unless the alien is present in the United States and is—

[(A) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

[(B) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

[(C) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admission) or who has been granted asylum by the Attorney General under such Act;

[(D) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)); or

[(E) an alien to whom section 305 of the Immigration Reform and Control Act of 1986 applies but only to the extent that the legal assistance provided is that described in such section:

Provided, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political calamity shall be deemed, for purposes of this section, to be an alien described in subparagraph (C);

[(12) that supports or conducts training programs for the purpose of advocating particular public policies or encouraging political activities, labor or anti-labor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this paragraph shall not be construed to prohibit the training of attorneys or paralegal personnel to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his or her rights under statute, order, or regulation;

[(13) that provides legal assistance with respect to any fee-generating case: *Provided,* That for the purposes of this paragraph the term ''fee-generating case'' means any case which, if undertaken on behalf of an eligible client by an attorney in private practice may reasonably be expected to result in a fee for legal services from an award to a client from public funds, from the opposing party, or from any other source;

[(14) that claims, or whose employees or clients claim, or collect attorneys' fees from nongovernmental parties to litigation initiated by such client with the assistance of such recipient or its employees;

[(15) that participates in any litigation with respect to abortion;

[(16) that participates in any litigation on behalf of a local, State, or Federal prisoner;

[(17) that provides legal representation for any person, or participates in any other way, in litigation, lobbying, or rulemaking involving efforts to reform a State or Federal welfare system, except that this paragraph shall not preclude a recipient from representing an individual client who is seeking specific relief from a welfare agency where such relief does not involve an effort to amend or otherwise challenge existing law;

[(18) that defends a person in a proceeding to evict that person from a public housing project if that person has been charged with the illegal sale or distribution of a controlled substance and if the eviction proceeding is brought by a public housing agency because the illegal drug activity of that person threatens the health or safety of other tenants residing in the public housing project or employees of the public housing agency: *Provided,* That for the purposes of this paragraph, the term ''controlled substance'' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802): *Provided further,* That for the purposes of this paragraph, the terms ''public housing project'' and ''public housing agency'' have the meanings given those terms in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a);

[(19) unless such person or entity agrees that it and its employees will not accept employment resulting from in-person unsolicited advice to a nonattorney that such nonattorney should obtain counsel or take legal action: *Provided,* That such person or entity or its employees receiving financial assistance provided by the Corporation shall also agree that such person or entity will not refer such nonattorney to another person or entity or its employees that are receiving financial assistance provided by the Legal Services Corporation; or

[(20) unless such person or entity enters into a contractual agreement to be subject to all provisions of Federal law relating to the proper use of Federal funds, the violation of which shall render any grant or contractual agreement to provide funding null and void: *Provided,* That for such purposes the Corporation shall be considered to be a Federal agency and all funds provided by the Corporation shall be considered to be Federal funds provided by grant or contract.

[SEC. 505. None of the funds appropriated in this Act to the Legal Services Corporation or provided by the Corporation to any entity or person may be used to pay membership dues to any private or non-profit organization.

[SEC. 506. None of the funds appropriated in this Act to the Legal Services Corporation may be used by any person or entity receiving financial assistance from the Corporation to file or pursue a lawsuit against the Corporation.

[SEC. 507. None of the funds appropriated in this Act to the Legal Services Corporation may be used for any purpose prohibited or contrary to any of the provisions of authorization legislation for fiscal year 1996 for the Legal Services Corporation that is enacted into law: *Provided,* That, upon enactment of Legal Services Corporation reauthorization legislation, funding provided in this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect.]

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, $1,000,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98–399, as amended, [$250,000] *$350,000.*

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, [$103,445,000] *$105,257,000, of which $3,600,000 are for the Office of Economic Analysis, to be headed by the Chief Economist of the Commission, and* of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions, and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (i) such incidental expenses as meals taken in the course of such attendance, (ii) any travel or transportation to or from such meetings, and (iii) any other related lodging or subsistence: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one [twenty-ninth] *thirty-fourth* of 1 per centum and such increase shall be deposited as an offsetting collection to this appropriation, to remain available until expended, to recover costs of services of the securities registration process*: Provided further, That no funds may be used for the Office of Investor Education and Assistance, and that $1,500,000 of the funds appropriated for the Commission shall be available for the enforcement of the Investment Advisers Act of 1940 in addition to any other appropriated funds designated by the Commission for enforcement of such Act.*

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103–403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, [$222,325,000] *$197,903,000*: *Provided further,* That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: *Provided further,* That notwithstanding 31 U.S.C. 3302,

revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), [$8,750,000] *$8,500,000.*

BUSINESS LOANS PROGRAM ACCOUNT

For [the cost of direct loans, $5,000,000, and for] the cost of guaranteed loans, [$146,710,000] *$174,726,000,* as authorized by 15 U.S.C. 631 note, of which [$1,700,000] *$1,216,000,* to be available until expended, shall be for the Microloan Guarantee Program, and of which $40,510,000 shall remain available until September 30, 1997: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out [the direct and] guaranteed loan programs, [$92,622,000] *$77,600,000,* which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, $34,432,000, to remain available until expended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program, [$78,000,000] *$62,400,000,* which may be transferred to and merged with the appropriations for Salaries and Expenses.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the ''Surety Bond Guarantees Revolving Fund'', authorized by the Small Business Investment Act, as amended, $2,530,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE [PROVISION] PROVISIONS—SMALL BUSINESS ADMINISTRATION

SEC. 508. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 509. (1) Notwithstanding any other provision of law, no funds appropriated under this Act may be used in violation of this subsection.

(2) Notwithstanding section 8 of the Small Business Act or any other provision of law, in carrying out subsections (a) and (d) of section 8 of the Small Business Act, the Administrator shall provide assistance only to qualified small business concerns.

(3) As used in this subsection—

(A) The term ''Administrator'' means the Administrator of the Small Business Administration.

(B) The term ''area of pervasive poverty, unemployment, and general economic distress'' means an area that, based on the most recent decennial census data available from the Bureau of the Census, meets the following criteria—

(i) The unemployment rate for the area (as determined by the appropriate available data) is not less than 1.5 times the national unemployment rate, and

(ii) The poverty rate for the area (as determined by the most recent census data available) for not less than 90 percent of the population census tract (or where not tracted, the equivalent county divisions as defined by the Bureau of the Census for the purposes of defining poverty areas) located entirely within the area is not less than 20 percent.

(C) The term ''small business concern'' has the same meaning as in section 3 of the Small Business Act.

(D) Except as otherwise provided in this subparagraph, the term ''qualified business'' means any trade or business that is a qualified business under the Small Business Act on the date of enactment of this Act, except that such a business that fails to meet the applicable location and employment requirements under such Act shall not be a qualified business.

(E) The term ''qualified small business concern'' means, with respect to any fiscal year of the small business concern, any small business concern, if for such year—

(i) every trade or business of such small business concern is the active conduct of a qualified business within an area of pervasive poverty, unemployment, and general economic distress;

(ii) not less than 80 percent of the total gross income of such small business concern is derived from the active conduct of such business; and

(iii) not less than 35 percent of the total payroll of such small business concern is paid to employees who are residents of an area of pervasive poverty, unemployment, and general economic distress.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1992 (Public Law 102–572 (106 Stat. 4515–4516)), $5,000,000 to remain available until expended: Provided, That not to exceed $2,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act, or provided under previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1996, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1996, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

[SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.]

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

[SEC. 609. LIMITATION ON THE USE OF FUNDS FOR DIPLOMATIC FACILITIES IN VIETNAM.—None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for (1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995; (2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or (3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995.]

SEC. 610. None of the funds made available by this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds (1) that the United Nations undertaking is a peacekeeping mission, (2) that such undertaking will involve United States Armed Forces under the command or operational control of a foreign national, and (3) that the President's military

advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

SEC. 611. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC–17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates, or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 612. None of the funds made available in title II for the National Oceanic and Atmospheric Administration under the heading ''Fleet Modernization, Shipbuilding and Conversion'' may be used to implement sections 603, 604, and 605 of Public Law 102–567.

SEC. 613. None of the funds made available in this Act may be used for ''USIA Television Marti Program'' under the Television Broadcasting to Cuba Act or any other program of United States Government television broadcasts to Cuba, when it is made known to the Federal official having authority to obligate or expend such funds that such use would be inconsistent with the applicable provisions of the March 1995 Office of Cuba Broadcasting Reinventing Plan of the United States Information Agency.

SEC. 614. (1) Notwithstanding any other provision of law, no funds appropriated under this Act may be used in violation of the provisions of paragraphs (2) and (3).

(2) Notwithstanding any other provision of law, neither the Federal Government nor any officer, employee, or department or agency of the Federal Government—

(A) may intentionally discriminate against, or may grant a preference to, any individual or group based in whole or in part on race, color, national origin, or sex, in connection with—

(i) a Federal contract or subcontract;

(ii) Federal employment; or

(iii) any other federally conducted program or activity;

(B) may require or encourage any Federal contractor or subcontractor to intentionally discriminate against, or grant a preference to, any individual or group based in whole or in part on race, color, national origin, or sex; or

(C) may enter into a consent decree that requires, authorizes, or permits any activity prohibited by subparagraph (A) or (B).

(3) Nothing in this subsection shall be construed to prohibit or limit any effort by the Federal Government or any officer, employee, or department or agency of the Federal Government—

(A) to recruit qualified women or qualified minorities into an applicant pool for Federal employment or to encourage businesses owned by women or by minorities to bid for Federal contracts or subcontracts, if such recruitment or encouragement does not involve using a numerical objective, or otherwise granting a preference, based in whole or in part on race, color, national origin, or sex, in selecting any individual or group for the relevant employment, contract or subcontract, benefit, opportunity, or program; or

(B) to require or encourage any Federal contractor or subcontractor to recruit qualified women or qualified minorities into an applicant pool for employment or to encourage businesses owned by women or by minorities to bid for Federal contracts or subcontracts, if such requirement or encouragement does not involve using a numerical objective, or otherwise granting a preference, based in whole or in part on race, color, national origin, or sex, in selecting any individual or group for the relevant employment, contract or subcontract, benefit, opportunity, or program.

(4)(A) Nothing in this subsection shall be construed to prohibit or limit any Act that is designated to benefit an institution that is a historically Black college or university on the basis that the institution is a historically Black college or university.

(B) Nothing in this subsection shall be construed to prohibit or limit any action taken—

(i) pursuant to a law enacted under the constitutional papers of Congress relating to the Indian tribes; or

(ii) under a treaty between an Indian tribe and the United States.

(C) Nothing in this subsection shall be construed to prohibit or limit any classification based on sex if—

(i) sex is a bona fide occupational qualification reasonably necessary to the normal operation of the Federal Government entity or Federal contractor or subcontractor involved;

(ii) the classification is designed to protect the privacy of individuals; or

(iii)(I) the occupancy of the position for which the classification is made, or access to the premises in or on which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any Act or any Executive order of the President; or

(II) the classification is applied with respect to a member of the Armed Forces serving on active duty in a theatre of combat operations (as determined by the Secretary of Defense).

(5)(A) In any action involving a violation of this subsection, a court may award only injunctive or equitable relief (including but not limited to back pay), a reasonable attorney's fee, and costs.

(B) Nothing in this paragraph shall be construed to affect any remedy available under any other law.

(6)(A) This subsection shall not affect any case pending on the date of enactment of this Act.

(B) This subsection shall not affect any contract, subcontract, or consent decree in effect on the date of enactment of this Act, including any option exercised under such contract or subcontract before or after such date of enactment.

(7) This subsection does not prohibit or limit the availability of funds to implement a—

(A) court order or consent decree issued before the date of enactment of this Act; or

(B) court order or consent decree that—

(i) is issued on or after the date of enactment of this Act; and

(ii) provides a remedy based on a finding or discrimination by a person to whom the order applies.

(8) As used in this subsection—

(A) The term ''Federal Government'' means the executive and legislative branches of the Government of the United States.

(B) The term ''grant a preference'' means use of any preferential treatment and includes but is not limited to any use of a quota, set-aside, numerical goal, timetable, or other numerical objective.

(C) The term ''historically Black college or university'' means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (920 U.S.C. 1061(2)).

SEC. 615. (1) This Act may be cited as the ''Stop Turning Out Prisoners Act''.

(2) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:

''§3626. Appropriate remedies with respect to prison conditions

''(a) REQUIREMENTS FOR RELIEF.—

''(1) LIMITATIONS ON PROSPECTIVE RELIEF.—Prospective relief in a civil action with respect to prison conditions shall extend no further than necessary to remove the conditions that are causing the deprivation of the Federal rights of individual plaintiffs in that civil action. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn and the least intrusive means to remedy the violation of the Federal right. In determining the intrusiveness of the relief, the court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

''(2) PRISON POPULATION REDUCTION RELIEF.—In any civil action with respect to prison conditions, the court shall not grant or approve any relief the purpose or effect of which is to reduce or limit the prison population, unless the plaintiff proves that crowding is the primary cause of the deprivation of the Federal right and no other relief will remedy that deprivation.

''(b) TERMINATION OF RELIEF.—

''(1) AUTOMATIC TERMINATION OF PROSPECTIVE RELIEF AFTER 2-YEAR PERIOD.—In any civil action with respect to prison conditions, any prospective relief shall automatically terminate 2 years after the later of—

''(A) the date the court found the violation of a Federal right that was the basis for the relief; or

''(B) the date of the enactment of the Stop Turning Out Prisoners Act.

''(2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.—In any civil action with respect to prison conditions, a defendant or intervenor shall be entitled to the immediate termination of any prospective relief, if that relief was approved or granted in the absence of a finding by the court that prison conditions violated a Federal right.

''(c) PROCEDURE FOR MOTIONS AFFECTING PROSPECTIVE RELIEF.—

''(1) GENERALLY.—The court shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions.

''(2) AUTOMATIC STAY.—Any prospective relief subject to a pending motion shall be automatically stayed during the period—

''(A) beginning on the 30th day after such motion is filed, in the case of a motion made under subsection (b); and

''(B) beginning on the 180th day after such motion is filed, in the case of a motion made under any other law;

and ending on the date the court enters a final order ruling on that motion.

''(d) STANDING.—Any Federal, State, or local official or unit of government—

''(1) whose jurisdiction or function includes the prosecution or custody of persons in a prison subject to; or

''(2) who otherwise is or may be affected by;

any relief the purpose or effect of which is to reduce or limit the prison population shall have standing to oppose the imposition or continuation in effect of that relief and may intervene in any proceeding relating to that relief. Standing shall be liberally conferred under this subsection so as to effectuate the remedial purposes of this section.

''(e) SPECIAL MASTERS.—In any civil action in a Federal court with respect to prison conditions, any special master or monitor shall be a United States magistrate and shall make proposed findings on the record on complicated factual issues submitted to that special master or monitor by the court, but shall have no other function. The parties may not by consent extend the function of a special master beyond that permitted under this subsection.

''(f) ATTORNEY'S FEES.—No attorney's fee under section 722 of the Revised Statutes of the United States (42 U.S.C. 1988) may be granted to a plaintiff in a civil action with respect to prison conditions except to the extent such fee is—

''(1) directly and reasonably incurred in proving an actual violation of the plaintiff's Federal rights; and

''(2) proportionally related to the extent the plaintiff obtains court ordered relief for that violation.

''(g) DEFINITIONS.—As used in this section—

''(1) the term 'prison' means any Federal, State, or local facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law;

''(2) the term 'relief' means all relief in any form which may be granted or approved by the court, and includes consent decrees and settlement agreements; and

''(3) the term 'prospective relief' means all relief other than compensatory monetary damages.''.

(3) APPLICATION OF AMENDMENT.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all relief (as defined in such section) whether such relief was originally granted or approved before, on, or after the date of the enactment of this Act.

(4) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended by striking ''crowding'' and inserting ''conditions''.

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading, $35,000,000 are rescinded.

DEPARTMENT OF COMMERCE

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

INFORMATION INFRASTRUCTURE GRANTS

(RESCISSION)

Of the unobligated balances available under this heading, $36,769,000 are rescinded.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $152,993,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the unobligated balances available under this heading, $115,000,000 are rescinded.

RELATED AGENCIES

UNITED STATES INFORMATION AGENCY

RADIO CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, $7,400,000 are rescinded.

This Act may be cited as the ''Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996''.

Mr. GRAMM. Mr. President, we have before us a very complicated bill, a very controversial bill. We are attempting to establish a sequence of activity with a goal of trying to expedite its consideration.

In order that we might try to get all this to come together in an orderly fashion, because I know many of our colleagues hope to be gone this weekend—even though, knowing I would be managing the bill, I plan to be here tomorrow and Saturday, so I am in no hurry; I want to be sure my colleagues understand that—but in order to try to expedite our consideration here, we have put together an amendment that will be offered by Senator HATFIELD, the distinguished chairman of the full committee, an amendment that is cosponsored by Senator HOLLINGS.

It has to do with adding to our 602(b) allocation; that is, allocating additional money to the subcommittee and then disbursing that money in such a way as to deal with some of the concerns that have been raised against the bill. And so that we could deal with this in an orderly fashion, I would like to propound a unanimous-consent request that we have opening statements by the distinguished ranking member of the subcommittee, by myself, by any other Senator who would like to make an opening statement; that then it be in order for us to submit for consideration managers' amendments that have been agreed to on both sides and any debate there might be on them; and then I would like it to be in order for the distinguished Senator from Oregon, Senator HATFIELD, to offer his amendment with Senator HOLLINGS because it addresses numerous issues.

If we do not do it in that way, we are probably going to simply use up time as we try to deal with those issues one by one. We can certainly proceed without this unanimous-consent request, but I hope our colleagues will indulge us since our objective is simply to try to expedite consideration of the bill.

Mr. HOLLINGS. Mr. President, this procedure has been agreed to, so I hope we can proceed along that line.

Mr. BYRD. Mr. President, would the distinguished Senator from Texas yield?

Mr. GRAMM. I would be very happy to yield.

Mr. BYRD. The distinguished chairman spoke of a reallocation of resources?

Mr. GRAMM. Yes, I did.

Mr. BYRD. The chairman of the committee and the ranking member of the full committee are authorized to approve such reallocation. Nobody has proposed this to the ranking member as yet about such a reallocation of resources.

Would the Senator inform me as to whether or not I am going to be contacted on that matter?

Mr. GRAMM. Well, if I might say to the distinguished Senator from West Virginia, this is not my amendment. There has been a series of discussions among Members. Basically what the Senator from Oregon has been doing is trying to find a way through our impasse.

As I am sure our colleagues are aware, our appropriations bill has $4.26 billion less than requested by the President for our subcommittee. It has $1.9 billion less than a freeze. And it has $870 million less than the House.

Senator HATFIELD has been working with Senator HOLLINGS and others to try to allocate funds to this subcommittee. I was unaware, I must say, that that had not been discussed with the distinguished Senator from West Virginia.

I have an outline of the amendment. But probably what I should do under this circumstance is simply ask unanimous consent that we be able to do opening statements, that we be able to do the technical managers' amendments we have agreed to, give the distinguished Senator from West Virginia an opportunity to discuss this with Senator HATFIELD, who is in a meeting with the Secretary of Energy on something very important in his State right now.

When the agreement has been reached and the ranking member, Senator BYRD, is satisfied, then we can proceed with it. And, again, this is not my amendment; I have not been directly involved in it even though I have concluded that this is a prudent thing for us to do.

Mr. BYRD. Well, I certainly thank the distinguished Senator. I know that it is an oversight, an inadvertent one. I want to make clear that such authorizations of reallocations have to be made by both the chairman and the ranking member of the full committee. And we make those after contacting various and sundry subcommittee chairmen. And I do not anticipate any problem along that line. But I thought I had better make mention of this before it becomes a problem.

Mr. GRAMM. Well, Mr. President, let me just then ask unanimous consent that we have opening statements by Senator HOLLINGS and myself and any other Member who would wish to make an opening statement, that it also be in order for us to offer managers' amendments where we have agreement on both sides of the aisle, and that when an agreement is reached between the distinguished chairman of the full committee and the ranking member, Senator BYRD, that at that point it be in order for Senator HATFIELD to offer his amendment which deals with some 20 different subjects. I think by doing it that way, we can expedite consideration.

So I ask unanimous consent that it be in order to have opening statements, that it be in order for me to offer, on behalf of myself and Senator HOLLINGS, managers' amendments where there is agreement on both sides of the aisle, and that it then be in order, when Senator BYRD has agreed, for the distinguished chairman of the full committee, Senator HATFIELD, to offer an amendment on behalf of himself and Senator HOLLINGS.

Mr. DASCHLE. Mr. President, reserving the right to object, I am not sure I heard the entire request. I apologize to the Senator from Texas. We would certainly have no objection to opening statements at this point. Because no one has had the opportunity to see these amendments, we have had requests on our side that prior to the time we agree to any kind of unanimous-consent agreement which would

involve these amendments that Senators have the opportunity to look at them.

So, we would have to object to anything beyond the opportunity to make opening statements at this point.

Mr. GRAMM. Mr. President, we are certainly narrowing it down to opening statements.

So with that, I ask unanimous consent that we begin opening statements and that it not be in order to offer an amendment until those opening statements are completed; at that point that—let me state it this way: I ask unanimous consent that it be in order now to have opening statements; that at the conclusion of the opening statements, subject to the agreement of the minority leader, at that point that it be in order for the distinguished Senator from Oregon, Senator HATFIELD, to offer an amendment on behalf of himself and Senator HOLLINGS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRAMM. Mr. President, let me try to give an opening statement on a very complicated bill without getting into too many of the details but in such a way as to basically cover the issues that are involved in this bill.

I think there are many reasons why this is a very complicated and a very controversial bill. One reason is money. This bill, probably more than any other appropriation that we will consider this year, has a very tight budget. It, in fact, provides $4.26 billion less for Commerce-State-Justice appropriations than was requested by the President.

It provides almost $2 billion less than a nominal freeze in the current level of appropriations for Commerce-State-Justice. And I remind my colleagues that, compared to some of the larger appropriation accounts, this is a fairly small appropriations bill in terms of actual dollar outlays. So when we are talking about $2 billion less for fiscal year 1996 than we are spending this year, we are talking about a substantial reduction in the ability to expend money for the carrying out of functions in the Department of Commerce, the Department of State, and the Department of Justice.

The bill also has almost $900 million less than our counterparts in the House had. And this is the first point I want my colleagues to understand. When the President criticized this bill for not providing funding for purposes for which he requested funding, it is important for our colleagues—and, quite frankly, it is important for those who are following this debate—to understand that we are operating under a totally different budget than the President proposed.

Our budget comes into balance in 7 years. Our budget substantially reduces discretionary spending. Our budget imposes very real constraints on spending money.

The President, in proposing $4.3 billion more for these three Departments of Government than we proposed, does so in a budget that will not be in balance by the second coming. It does so in a budget that will not bring the deficit below $200 billion in a decade.

So the fact that the President, in his budget, can request funding for many functions that we do not fund is simply a testament to the fact that our budget is a binding budget that is balanced over 7 years and the President's budget is not.

There are several ways to approach the writing of an appropriations bill where you have to cut $4.3 billion. One way—and, quite frankly, in no way being critical, but I want people to understand why this is such a controversial bill—one way is to take the approach which has been taken in most other appropriations bills, and that is to simply take the level of savings that is dictated, nick a whole bunch of programs a little bit and, basically, take the approach that you are going to sort of hunker down and not fundamentally change anything.

It seems to me, Mr. President, that this is roughly equivalent to an action that a family which is running out of money might take at the end of the month when they say, ''Well, we're running out of money and what we're going to do is spend a little bit less going to the movie and spend a little bit less on milk for the children.''

As we know, families do not operate that way. Families set priorities. Families decide toward the end of the month when they are running out of money that they are not going to go to the movie, but that they are going to continue to buy their children milk.

As chairman of this subcommittee, I decided that if we were shooting with real bullets, if we were going to write an appropriations bill now that set out a path to balance the budget over 7 years, that we ought to recognize, to begin with, that we are going to have less money next year than we had this year, less the next, and less in each successive year for the next 6 years.

So I made the decision to terminate programs, to set priorities. My original recommendation terminated some 12 programs outright. It also set very strong priorities. It was my decision as chairman of the subcommittee that not all programs in the Commerce, State, Justice appropriations bill were created equally. I believe that the American people have very strong preferences, and what I have tried to do within the monetary constraints that I have had as chairman, and this has been supported by the majority in both the subcommittee and the full committee, is to try to fund the President's effort in fighting crime. I am very proud of the fact that this bill fully funds the FBI and the DEA. It fully funds our efforts to incarcerate violent criminals. It provides a strong funding increase for the courts to hire prosecutors to provide the system of criminal and civil justice that we need to deal with the problems that we face.

This bill provides a substantial increase in funding for the Justice Department, funding for our effort to fight violent crime, funding for our effort to fight drugs.

I will come back in a moment and talk about changes in how the Justice Department would function, but let me make this point. While we provide, basically, the same level of funding requested by the President, we have in subcommittee and full committee on this bill changed the allocation of funding. In the crime trust fund, we spend less money on social programs, we spend more money building prisons. It is a belief of the subcommittee and the full committee that we need to get tough on violent crime, and we try to do that in this crime bill.

The second area that we fund in this bill has to do with the Department of State. I have to say, Mr. President, that I have been somewhat disappointed. I visited with the Secretary of State. I explained to the Secretary of State the simple arithmetic of this bill, and the simple arithmetic of this bill is as follows:

If we provide roughly the level of funding requested by the President for the Justice Department, if we provide funding for half of the increase requested by the Federal judiciary, what that means is, given the amount of money we have left, that we have to cut every other program by an average of 36 percent. That is the cold reality that we are looking at.

I tried to explain to the Secretary of State that that was basically where we were and that that meant that we were going to have to reduce the level of funding for the State Department by roughly 20 percent. That is actually better treatment than we provided for the Commerce Department in this bill.

We have not adopted the authorization bill for the State Department, but a majority of the Members of the Senate have voted for that authorization. It has been filibustered. We have been unable to get 60 votes and, as a result, what I did in writing the appropriations bill is I took the authorization bill which has received a majority vote in the Senate on a cloture motion and I used it as the blueprint to write funding for the State Department.

The basic reductions that occur in the State Department budget have to do with American payments for membership in world organizations. The distinguished Senator from North Carolina, Senator HELMS, in his authorization bill, dramatically reduces the amount of taxpayer funding that goes to world organizations to promote objectives that, at least in the minds of the majority of the Members of the Senate, did not reflect the will of the American people.

I think it is important to note, and I want to be sure that it is part of the RECORD, that despite all of the moaning from the State Department that somehow not a sufficient account is taken in this bill that representing

America abroad today is a dangerous business, something that I understand, I appreciate the sacrifice that is made by people who work in the State Department.

As a result, I have fully funded every penny requested by the President in his budget for such expenditures. Even though he spends $4.3 billion more in his budget than we are allowed to spend in ours, I fund every penny the President requests for security abroad for both our Embassies and our personnel.

So the criticism of the State Department that somehow we are underfunding the State Department and the needs of its people is simply verifiably false.

This is a tough budget. It does reflect the fact that the American people do not believe that we are getting our money's worth with all of these world organizations where we pay the bulk of the dues and have a relatively small say in what they do and on how our money is spent.

I think the plain truth is the American people understand that in the postwar period, America has been like a little rich kid in the middle of a slum with a cake. The whole world has looked at this cake and wanted a piece of it. We literally have run all over the world handing out pieces of this cake. Nobody has loved us for it. In fact, in many cases, they have not loved us, thinking they should have gotten more.

The fundamental philosophy behind this appropriations bill is we need to stop sharing the cake, and we need to start sharing the recipe we used to bake the cake, which is free enterprise, individual liberty, and private property.

So in the State Department appropriations bill, we provide $4.4 billion. The President requested $5.6 billion. Much of this reduction is taken in membership in world organizations. And, quite frankly, while this can be debated forever, I would be perfectly content to take my appropriations bill, take the President's budget, to tear the title page off, to put each of them on the table in every kitchen of every working American and let them decide whether they want money spent funding the war on violent crime in America, the war on drugs, gaining control of our borders, or whether they want the money spent paying dues to organizations around the world where the United States is now a member of these organizations and, in many cases, is paying the bulk of the dues.

I do not think there is any doubt that the American people would choose the position that I have chosen. It seems to me that is why the State Department has not wanted to debate the real issue here.

In terms of the Commerce Department, let me remind my colleagues that the budget that we adopted in the Senate was a budget that called for the elimination of the Commerce Department. I have listened to my colleagues talk about eliminating departments, and I then look at their willingness to vote to actually cut the programs, and I often see a gulf between the rhetoric and the reality. It is almost as if when people are talking about eliminating departments, they want to go down and take down the flag and take down the plaque off the wall, but they want the Government to keep doing the things the Department has been doing.

When we adopted a budget that called for the elimination of the Commerce Department, when the Government Operations Committee reported a bill to eliminate the Commerce Department, I, as chairman of this subcommittee, believed that they were serious. And, as a result, we dramatically reduce spending in the Commerce Department. We set up a procedure to provide funds for current employees, and we provide the mechanism that would allow us, if in fact we pass the authorizing bill, to terminate the Department, and to do it in an orderly fashion.

Now, many of the people who voted for the budget to eliminate the Department want to preserve some of its programs and, obviously, we are going to have votes on those. There are many programs within the Commerce Department that this bill eliminates outright. But, basically, it is a bill that begins the process of dramatically reducing the level of expenditures for activities where the Government is attempting to pick winners and losers in the American economy. There is a fundamental philosophical difference between the two parties on this issue. The party which I represent—the philosophy I believe in—believes that the market system ought to be the basic determining factor of who gets money to invest; that Government does not have the wisdom to make that decision and, quite frankly, even if it had the wisdom to make that decision, since it is inherently a political decision, it would not make that decision very well.

That is an outline of the expenditures of the bill. As I said, the bill eliminates some dozen programs from the Minority Business Development Agency to the U.S. Travel and Tourism Administration, to the Technology Administration, to the information infrastructure grants, to the Death Penalty Resource Centers, to the Competitive Policy Council, the Ounce of Prevention Council, and the bill eliminates Legal Services as a Federal program.

Now, let me talk about the language changes in the bill, because almost every one of these provisions is controversial. So let me try to tick through basically what the bill does.

The House appropriations bill appropriated to their crime bill, which was part of the Contract With America. The Senate has not passed a crime bill. The crime bill passed in the House contemplated and, in fact, provided a dramatic change in the President's program to provide funds to State and local governments. We had no corresponding bill pass in the Senate, but we do have a bill that has been introduced by Senator HATCH in conjunction with Senator DOLE. To make the House and Senate crime bills conformable, it was decided by the subcommittee and the full committee to write in the allocation formula from the Dole-Hatfield proposal, so that both appropriations bills are moving in the same direction toward block grants. Needless to say, with Senator BIDEN, this has been a very controversial subject, and we have worked out an agreement where Senator BIDEN will offer a substitute for this provision.

Senator HATCH and Senator DOLE would like to change their proposal, which was written into the bill, and so they will basically put the ball in the air. Each will submit alternatives, and we will determine, based on a vote on the floor of the U.S. Senate, what direction we move in.

But let me be sure that everybody understands what the bill before us does in this area. The bill before us would allow communities to carry out the community policing program exactly as the President proposed, if they choose to. In the bill before us, we would allocate funds to local police departments, and they would have the ability to do community policing exactly as the President has proposed, if they choose to do it. The objection that has been leveled against this block grant is not that they cannot do what the President has proposed we do, but that they have the option of doing it in a different way. The objection to our language is not a dispute about the President's program so much as it is a dispute in the ability of local government and local chiefs of police to decide to use the money in a different way if they think that will work better for them.

We have set out a guideline on how the money could be used. If people chose to do community policing, to put more policemen on the beat, as our crime bill last year proposed, and as the President supports, they could do that. If they decide that they want to have more policemen on the beat, but they want to use the funds for training, they could do that. If they decide that they want to work overtime to get better trained police officers on the street now while they bring new trainees into the police academy, they could do that. If they decide they need to use the funds to buy equipment to make their system more efficient, they could do that. But they have the capacity to carry out the program as the President has proposed, if they choose to.

The second change in language has to do with the Legal Services Corporation. It is not news to any of my colleagues that I am not a fan of the Legal Services Corporation. I believe that is has some legitimate functions. But I think that, in many cases, they have not carried those functions out.

Legal Services Corporation today has a lawsuit underway against every State in the Union that has tried to reform welfare. Every time any State in the Union has had a mandatory work requirement, the Legal Services Corporation has filed a lawsuit against them. Any time any State in the Union has tried to deny additional benefits to welfare recipients who have additional children on welfare, the Legal Services Corporation has filed a lawsuit against them.

The Legal Services Corporation has a long history of using taxpayer funds to promote causes which are not taxpayers' causes. My view is, Mr. President, that if someone wants to file a lawsuit against the State of New Jersey saying that they cannot have a mandatory work requirement for welfare recipients because it violates the constitutional rights of welfare recipients to have to work, people ought to have a right to file that lawsuit. But they ought not to use taxpayers' money to do it.

In any case, after many years of battling on this issue, this year I proposed—and was successful—in the initial mark to eliminate the Legal Services Corporation outright.

I did not have the votes in subcommittee to do that. An agreement was reached where we eliminate the Federal Legal Services Corporation. We take roughly half the money that it is now spending and we give that money in a block grant to State governments. Then State governments, within a set of guidelines which limit the ability of organizations that take Federal taxpayers' money to engage, basically, in the promotion of class action suits, opposing welfare, and a series of other restrictions based on past concerns—have block grants to spend on legal services. It provides roughly half the funds that the existing program provides.

Another controversial area of language in the bill has to do with prisoners' work. This is an issue which I feel very strongly about. I do not have much doubt in my mind that when the votes are counted on the floor of the Senate, I am going to lose on this issue. But I want the American people to know about it. Part of my reward for being chairman is that now people have to take this provision out.

Let me define the problem. To keep someone in the Federal penitentiary this year is going to cost the Federal taxpayers $22,000. We could send somebody to Harvard for what we are going to pay to keep them in the Federal penitentiary. We are paying more to keep someone in the Federal penitentiary than they would make if they could earn twice the minimum wage working.

Now, why is that so? Part of the reason is because of the way we build prisons. I have tried in this bill to begin moving us in the direction of stopping the building of Federal prisons like Holiday Inns, taking out the air conditioner, the color television, the weight room. The key ingredient in this direction is requiring Federal prisoners to work.

Now, this is where we run headlong into greedy special interests. This is not just the greedy special interests of organized labor. It is also, quite frankly, the greedy special interests of corporate America. It is the greedy special interests of big business, and it is the greedy special interests of small business.

We have three laws in effect that basically criminalize working Federal prisoners. It is basically criminal in America for prisoners to work in any conventional sense of working. Most Americans have not the foggiest idea this is true, and they would go absolutely berserk if they understood it.

These three laws basically go back to the Depression era when we took a criminal justice system where prisoners were working, where they were to a substantial degree paying the cost of their own incarceration, and in the Depression era we started eliminating their ability to work.

Now, some people could argue—though I would never make the argument—that it may have made sense in the Depression because by not having prisoners do something, someone else could do it and it would create a job. If one could have made that argument in the Depression, they cannot make that argument today.

We have one Federal statute that makes it illegal for prisoners to work in producing anything sold in interstate commerce. We have a law that makes it illegal for a prisoner to produce anything that is transported in interstate commerce. We have another law that makes it illegal for prisoners to produce anything that is sold within the State in which it is produced. Then we have another provision that sets out guidelines where, if prisoners did produce something that was sold in the private market, they would have to be paid union scale.

Let me translate all of those amendments and what they mean. What that means, in essence, is you cannot make prisoners work in producing anything to sell in the private sector of the economy.

All over the country we have 100,000 people in the Federal penitentiary. We have 1 million people incarcerated in America. By and large, except for producing a handful of things that are relatively insignificant in value as compared to the total economy, they cannot work.

Now, we have a bunch of programs in States where prisoners produce car tags. We have a Federal program where they produce furniture for the Federal Government. But by and large these laws prevent us from putting prisoners to work. I would like prisoners to work 10 hours a day 6 days a week. I would like to turn our Federal prisons into industrial parks.

What I have done in this bill is I have overturned these three laws, and I have set out a simple guideline. What the bill says is that it is legal for prisoners to be required to work so long as the President certifies that what they produce is not sold in such a way as to glut a local market or to glut the national market.

What I foresee under this provision, if it becomes law, is that we could turn our Federal prisons into industrial parks. Many of the goods that are produced abroad, component parts from everything from air conditioners to wheelbarrows to automobiles, we could produce some of those component parts with prison labor.

If we stopped building prisons like Holiday Inns, we could probably cut the $22,000 in half. If we required prisoners to work, we could probably cut the $11,000 of net cost in half. I believe that within a decade we could cut the cost of incarcerating people by 75 percent. But we are probably not going to do it. Let me tell you why. Because organized labor and because a few industries that do not want any competition will support the offering of an amendment that will continue to criminalize prison labor in America.

Now, I offered this provision in our bill because I think it is needed. I think when you have 1 million people incarcerated, it is inhumane not to have an orderly system where they can work. I will not drag this dead cat across the table too many more times here, but I want to remind my colleagues that when Alexis de Tocqueville came to America in the 1830's and went back home and wrote ''Democracy in America,'' one part of American life that he commented on was our prison system and how enlightened it was because we worked prisoners hard. Prisoners at that time were working 12, 14 hours a day 6 days a week, and de Tocqueville noted how enlightened it was because by making prisoners work it made life in prison bearable.

If we made prisoners work today, not only would we save money, but people when they got out of prison would have a skill that they learned working in prison. If we made them go to school at night, they would know how to read and write, and having worked 10 hours a day 6 days a week, go to school at night, serve their full term, when they get out of prison they would not want to go back.

That is not going to happen because this provision is going to be stricken out by special interests. I know it, but I want people to have to vote on it, and I want people to be able to look at their vote. Prisoners in America should be required to work. They should be allowed to work in producing things that we can sell.

Every year our dear colleague, Senator HELMS, offers an amendment to ban trade with countries that make prisoners work. Every year I wonder why we cannot make our prisoners work. How is it that we have people who are working two and three jobs,

struggling to make ends meet, and we are paying $22,000 a year to keep somebody in prison, and then we cannot force them to work to produce something of value to pay for their own incarceration?

It is called greedy, petty, special interests. The world ought to know about it. I hope to awaken them by putting this provision in this bill that somebody has to take out.

Now let me talk very briefly about two other language provisions in the bill. One has to do with the 8(a) program. The 8(a) program is designed to help disadvantaged businesses. The basic idea of the 8(a) program was that there are some businesses that are disadvantaged and that we want to try to help them get on the playing field and be more competitive.

The problem is that over the years, disadvantaged has come to mean minority or female. You cannot be disadvantaged, under the 8(a) contract, if you are not a minority and if you are male. So what I try to do is open up the 8(a) contract and say, no matter what your gender is, no matter what your race is, if you are operating in a depressed area, if you are a small, struggling business and you are hiring people who live in a distressed area, you ought to be treated in exactly the same way as someone doing exactly the same things you are who is from a different ethnic group or from a different gender.

We do not eliminate the 8(a) program, we simply open it up to people who are disadvantaged because they are small business people in depressed areas with high unemployment and they are hiring people from those areas.

This is a controversial subject. I understand that. But I believe, again, if we could put this proposal on the kitchen table in every kitchen in America and ask, if somebody is a small business person, if they are operating in an area of high unemployment, if they are hiring people who are from a high unemployment area, why should they be discriminated against based on race or gender? I think America has asked that question and I think America has answered it. They are waiting for the U.S. Senate to answer it and I want to give them a chance to answer it today.

The final provision I want to talk about in the bill, in terms of language, has to do with quotas and set-asides. I understand where the Senate stands on this issue. Of all people here, I understand it. I offered an amendment earlier this year to ban set-asides, to open up competition, and to say that in bidding on a Government contract you have to be judged on merit; that you cannot be judged based on gender or race. The American people say, by an 80-percent margin, that they support the merit system. America was built on it. Discriminating against people is fundamentally un-American, but the Senate supports discrimination and proved it on that night in that amendment.

This is my bill, as chairman of this subcommittee, and I am very proud of the fact that we have, in this bill, in the jurisdiction of Commerce, State, Justice under this bill, we say that it is illegal to discriminate against anybody in hiring, promotion, and contracting, and it is illegal to discriminate in favor of anybody. It is simple language. In fact, it is the language which the distinguished majority leader, Senator DOLE, has worked out. I had worked out similar language but, frankly, I thought his language was better so I included it.

It is basically a commitment to merit. I have to believe, based on our past vote, that this provision will be stripped out. But, again, America ought to know who is and who is not for quotas; who is and who is not for set-asides. Let me make it clear that the language in this bill preserves our total effort of outreach. It preserves our ability to go out and recruit people to apply for jobs. It gives us the full ability to work, to see that everybody gets on the playing field. But it requires that, once people are on the playing field, when it comes to being hired, being promoted, or getting a contract, that must be done by merit.

So this is a very controversial bill. It is no accident that we have kept it to the end. I am quite proud of the bill. Obviously, others oppose it. And the way democracy works is that we propose and we debate, and I accept the outcome of it. But I think this bill represents a dramatic change and, quite frankly, I have been disappointed in the other appropriations bills in that we have committed to a budget that calls for a dramatic change but everybody seems to be waiting until next year or the next year or the next year to make these changes. I wanted to make them now. I may not be here 2 years from now. I do not know. I may not be on this committee next Monday—I do not know that either. But I do know that I believe this represents a dramatic break with the past.

This bill terminates programs. This bill dramatically changes the way we operate the Federal Government. And I think it gives people a very clear choice. It defines a movement in the direction that I would like to see us go. I am proud that the subcommittee and full committee supported the effort to bring the bill to this point. I know there are some people on the subcommittee and full committee who, now that we are on the floor, will abandon us on some of these issues. But I think we have before us a good bill and, Mr. President, I appreciate the indulgence of the Chair as I outlined the bill.

Let me yield the floor for the distinguished ranking member, a man who has served on this subcommittee as both chairman and ranking member, a man for whom I have very great respect, the distinguished Senator from South Carolina.

The PRESIDING OFFICER (Mr. GORTON). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I rise today to speak against H.R. 2076, the fiscal year 1996 Commerce, Justice, and State appropriations bill. For me, this is unprecedented. Never in my 25 years on the Appropriations Committee—or my 18 years as serving as either the chairman or ranking minority member of this subcommittee—have I opposed this bill. And never in my career here have I seen an appropriations bill prepared in such a partisan manner and voted out of committee on straight party lines.

I am against this bill because I simply cannot go along with its recommendations and because of its extreme nature. This bill represents a 180-degree departure from the way we on this committee have approached our job when senators Rudman, Weicker, Pastore, Laxalt, and DOMENICI and I were chairman or ranking member. In the past, we focused on the business of governing. We worked together to ensure that the agencies under our jurisdiction are well-run and appropriately funded. Our job always was to see to it that the taxpayers' dollars were well spent. If a program was worth it, we sought to fund it adequately. At the same time, we conducted budget scrubs to ensure that we achieved savings from delayed contracts, program changes, and other technical matters.

But Mr. President, that is not what today's bill is about. It is not about governing. It is about politics and making philosophical policy statements. It is about picking winners and losers. It is about throwing money at one part of this bill, the Department of Justice, and about wreaking havoc on the rest of the bill. In many ways, this bill seems more like a budget resolution than an appropriations bill.

Mr. President, government is not a dirty word. I know that there are some who have come to Washington intending to have a fire sale. Well, those people will probably like this bill because it is a bonfire. Agency after agency is eliminated or subjected to unprecedented reductions of 20 percent or more. This bill slashes programs with little description or detail of what is being cut. For example, the International Trade Administration is cut by $47 million below a freeze. But the report does not direct how the reduction should be made. Should it be from the Import Administration that protects U.S. industry from foreign dumping? Or should it come from the foreign commercial service that promotes U.S. industry overseas or from trade and industry sector analysis? This bill just does not say.

So, we have wholesale elimination of agencies. And we will have wholesale reductions in force and office closures. They are not being highlighted in this report, but mark my words on that.

Take the Small Business Administration. My friend SBA Administrator Phil Lader tells me that his appropriation for salaries and expenses means that the SBA will have to lay off 1,200 of their 3,100 employees.

Mr. President, maybe I am old fashioned, but I will not join in this fad that denigrates public service. In the 25 years I have worked on this bill, I have learned that much of it supports what we in the budget game call salaries and expenses. What that means is that most of this bill funds people. And I have come to have great respect for the dedicated public servants who work hard to serve the people of this country.

I think of Emilio Iodice, of the International Trade Administration, our senior commercial officer in Madrid, Spain, who is hustling day in and day out to get contracts for American business. I think of Dr. Neal Frank and Bob Sheets, of NOAA, who have run the hurricane center in Miami, FL, and who worked around the clock to warn us of killer storms. I think of Ambassador Princeton Lyman in South Africa who is helping that nation build a lasting democracy and of the many foreign service officers I have met. In my view, these State Department and USIA foreign service officers truly are the best and the brightest. I sometimes wonder how many of us could pass their stringent entry requirements. And of course, I think of the many professional comptrollers who with us on a day-to-day basis—people like Mike Roper at Justice, Mark Brown at Commerce, and Stan Silverman at USIA.

With this bill, I worry about the message that we are sending to these dedicated public servants and young people who might want to enter government service. I think we should be praising these people for their service, not denigrating them.

JUSTICE INCREASES

In the Commerce, Justice and State hearing room in the Capitol, there is a painting of Edmund Randolph, our first Attorney General. I think about him when I look at what is happening to this Justice budget in this bill. We are throwing money at a problem without being responsible. Do my colleagues know when funding for the justice department hit the $3 billion level? It was 1983. In other words, it took 194 years for the Justice Department's budget to reach $3 billion. And that is how much the increase is for Justice in this bill for just 1 year. That is nothing short of amazing.

I think most of us who were around in the early 1980's realize that we tried to throw too much money at Defense too quickly. And as some will remember, I was one of those who pushed hard to increase Defense in 1980. But, I fear that this is exactly what we are doing with Justice in the 1990's. This year, the Federal Bureau of Investigation is unable to spend almost $50 million that we gave it last year to hire more agents. Of course, the bureau will find other uses for the money. But this bill before us plans to give the FBI an increase of almost half a billion dollars above this year—an increase of 20 percent in one year. I am all for my good friend Judge Freeh and the dedicated agents who serve us. But a 20-percent increase in 1 year? And when I look at the Immigration Service, we are adding 1,300 border patrol agents per year, which again, is more than a 20-percent annual increase.

Now I stand second to none in my support for the Justice Department. During the span that I last served as subcommittee chairman of this appropriations subcommittee, the Justice Department grew from $3.9 billion in 1986 to $13.7 billion in 1994. In the Senate, Attorney General Janet Reno probably does not have a bigger fan than me. But we have got to slow down and take a look at where all this money is going. We have got to stop the bidding war to see who can throw more money at law enforcement to rack up political points.

Mr. President, this bill is largely the story of two bills. For Justice and judiciary, it represents increases and for the remainder of the bill it will cause destruction. It did not have to be done this way. I would urge my colleagues to look at how much more reasonable and moderate the bill is that the House sent to us. The Contract With America crowd developed a much more responsible bill.

I would like to describe some of the recommendations for my colleagues.

For the Commerce Department, the bill: Eliminates entirely several Commerce technology programs: the Technology Administration, new Advanced Technology Program and manufacturing extension program grants. It eliminates previous funding to modernize National Institute of Standards and Technology laboratories.

The bill eliminates the Minority Business Development Agency, a program created during the Nixon administration to empower minority entrepreneurs, and to expand minority-owned businesses.

The bill eliminates the U.S. Travel and Tourism Administration.

The bill cuts the International Trade Administration by $45 million or 17 percent below a freeze. This would result in office closures around the country and overseas, and debilitate our trade promotion efforts for U.S. industry.

It cuts the Economic Development Administration [EDA] from its current level of $410 million to $100 million. It reduces one of the only programs with a direct charter to assist communities impacted by defense base closures and realignments.

It severely reduces the National Telecommunications and Information Administration [NTIA] operations, the public broadcasting and facilities program, and it terminates the information infrastructure grant program and the children's educational television program.

Mr. President, the bill authorizes and appropriates funds for a new Commerce Reorganization transition fund which finances personnel separation costs and termination costs for the various agencies proposed for elimination.

It provides $395 million for economic statistics and the Census Bureau, an increase of $84.5 million above the House bill, and $70.4 million above this year.

It provides $1.867 billion for the National Oceanic and Atmospheric Administration [NOAA], a decrease of $45 million below the current year, but $92 million above the House bill. Like the House, the NOAA fleet modernization program is terminated.

For the State Department and international affairs agencies, the bill severely cuts State Department operations funding $340 million below this year's level. This will result in the closing of many embassies and consulates around the world and the layoff of 1,100 foreign service and civil service employees.

The bill rescinds $140 million in prior year appropriations for embassy construction, repairs and maintenance. This will likely result in the cancellation of our new embassy in Ottawa, Canada, and the elimination of repairs, maintenance and security improvements around the world.

The bill assumes S. 908, Senator HELMS' authorization, which never proceeded in the Senate because of its controversial provisions. This bill, however, provides $890 million less funding for the State Department than Senator HELMS proposed to authorize.

The bill authorizes and funds a new Foreign Affairs reorganization transition fund and provides $26 million for this account. Bill language directs the director of OMB rather than the Secretary of State to consolidate programs under State, USIA and ACDA.

Funding for international organizations is cut by 37 percent below current levels. This year the United States paid $873 million to the United Nations, the Organization of American States and 49 other international organizations. These assessments are based on treaty obligations. In 1996, the administration requested $923 million for these obligations. The bill provides only $550 million. We would have to pull out of a lot of international organizations or simply refuse to pay our bills.

The U.S. Information Agency [USIA] is devastated under the recommended bill. USIA is cut $364 million below the current year and $53 million below the House bill.

This bill cuts international educational exchanges, like the Fulbright program, by $43 million below the current year.

The bill provides $355 million for international broadcasting—the Voice of America, Radio Free Europe Liberty, and Radio and TV Marti. It is far below last year's level, but above the House.

For independent and regulatory agencies, the bill terminates the Legal

Services Corporation, current funding of $400 million, and replaces it with a civil legal assistance block grant under the Justice Department. The bill carries 13 pages of legislation including a long list of restrictions on the use of these funds. For example, the block grant could not be used for helping a poor person seek a legal separation from an abusive spouse.

The Corporation was created during the Nixon Administration. I worked closely with Lewis Powell in the endeavor, and I stood with my friend, Warren Rudman, in his yeoman efforts to save the LSC. Like the Senator from Texas, I have had concerns about the LSC being involved in class-action suits. But the House bill had already dealt with that, and it retained funding for the LSC.

The bill cuts all regulatory agencies at least 20 percent below a freeze. In each case, the bill uses fee collections to cut appropriations even though these fees often were created to enhance operations. The recommended bill will result in significant reductions in personnel and operations.

The Federal Trade Commission [FTC] is proposed to receive $79 million instead of $98 million as proposed by the House and provided currently. The FTC is charged with consumer protection and anti-trust duties. Again, we are looking at a one-third reduction in staff and cancellation of many important programs such as the FTC's efforts to combat telemarketing fraud.

The Federal Communications Commission [FCC] is proposed to receive $166 million instead of the current level of $185 million. We keep giving new responsibilities to the FCC under the communications bills, but here we are cutting them below current levels.

The Securities and Exchange Commission [SEC] is funded at $238 million instead of the current level of $297 million. Further, the bill reduces charges to individuals registering securities and shifts $60 million in costs to the federal taxpayers. So I guess that says we want to combat violent crime in Justice, but white-collar crime by Ivan Boesky is fine.

The Competitiveness Policy Council is eliminated.

The Maritime Administration is funded at $70.6 million instead of $94.7 million, the current level, and far below the administration's request of $309 million.

The Small Business Administration [SBA] is funded at $558 million, $359 million below this year, and $73 million below the request. SBA says that they will have to reduce over a third of their workforce based on the committee's report language direction to fund grants and loans instead of personnel. This ignores many of the streamlining efforts that Erskine Bowles and Phil Lader have already accomplished, resulting in reduction of 500 positions during the past 2 years.

REWRITING THE CRIME BILL/LEGISLATION

Finally, I oppose this bill because it proposes to terminate the successful Cops on the Beat program and other authorized Violent Crime Reduction Trust Fund programs. In their place, the appropriations bill essentially authorizes a new Crime bill. Talk about breaking new ground for legislation on an appropriations measure.

The Cops on the Beat or Community Oriented Policing program is one of the most efficient and effective programs that has ever been created. Within a year of passage, 25,000 additional police are on the street in America. We will be debating this program soon, in more detail. But I must say that I simply do not understand why any member would want to terminate this program.

Drug courts is another authorized program. It was Janet Reno's creation, based on her experience in Miami. This is not a soft prevention program. Drug courts work and are getting non-violent defenders off of illicit substances and back into society.

This bill is block grant crazy. Legal services—They say, ''Let us make it into a block grant.'' Community policing and drug courts—They say, ''Let us make it into a block grant.'' I guess I do not understand. I remember the Republican filibuster against the President Clinton's stimulus package in the spring of 1993. As I recall, the principal argument against that bill was that it was funding block grants and recipients had a wide discretion of how they could use block grants. In law enforcement in the past, we had a block grant program—LEAA—and it was a disaster.

Mr. President, this bill contains many other pieces of legislation. It takes the limits off of sales from prison labor, and it changes affirmative action and procurement regulations.

I hope that my colleagues will carefully examine this bill. Many have said, ''Yes, it is a travesty, but the President will veto it.'' That may be true. All indications are that it could not be signed in its current form.

I, for one, hope that the Senate will not go on record by supporting such an extreme, irresponsible measure. I hope we can make some changes to this bill and improve it.

Mr. President, obviously I am not disposed to speak at length, but I have to comment about my distinguished colleague and his opening statement on two or three items. Just in closing, he said: This is open. This is the way we do it. It is open to debate. We debate these things, and we vote on them and we make decisions.

Unfortunately, having been on this committee for over 25 years, in this subcommittee we did not debate, we did not discuss, and we did not do anything other than vote. That is why the bill comes on a bipartisan split, so to speak, of 15–13. It reminds me of Mao Tse-tung when he got a birthday wish. It said, ''From the Central Committee, by a vote of 15 to 13, we wish you a happy birthday.''

This bill is an atrocity. In my experience in particular measures, it is voted that way because, very conscientiously, we did not have a chance to debate and rectify certain things. But I do not want to dwell on that too much at length because the distinguished chairman of the full committee is henceforth coming to the floor to try to give us an additional allocation and correct some things, like the elimination of the Minority Business Enterprise Administration—an entity that started out with President Nixon back 25 years ago in 1970—and various other things like that which were eliminated.

The bill is called an atrocity because the distinguished chairman of the subcommittee, for whom I have great respect, says we overturned laws. He is dead right in this particular measure. It is not the function of an Appropriations Committee to overturn laws. On the contrary, we are supposed to conform to the authorized law, or the law authorizing the amounts, and thereupon appropriate within those particular amounts.

Here we see a measure that takes a bill that has been debated fully and voted three readings in the House, three in the Senate—with respect to cops on the beat—signed into formal law, the law of the land, and participated in with enthusiasm by the overwhelming majority of the police forces over the entire country. It is a program that is working and working extremely well.

Without any authorization, that law, as provided by way of money in this measure, is overturned. It is just repealed. The formal law is totally disregarded, and in its place, we have a so-called block grant approach.

Similarly, with respect to the Legal Services Corporation, that was more or less created by the distinguished former Associate Justice of the Supreme Court, Justice Powell, when he was president of the American Bar Association. Here is a corporate entity, the Legal Services Corporation, worked in by the private sector, by the professional attorney sector and by the Federal Government in a most successful fashion, but it is not within this bill. That endeavor that has been going on successfully for years is totally overturned and repealed. A new program is put in. It is not authorized.

Of course, the parliamentary tactic is to raise a point of order. But in the spirit of trying to move along, we can have some votes around here on points of order and everything else. But I am not trying to turn back anything parliamentarily. I am trying to turn it back on the basis of merit.

But if you go through this particular measure, they come down real hard on the future of this country with respect to, for example, the programs within the Department of Commerce and the Department of State. The Department of State is not really left with an operating budget. We have been closing consulates and closing down various

endeavors on behalf of the Department of State over the last 15 years. Somehow, somewhere, people have forgotten that, after all, we had President Reagan come to town with spending cuts, and then President Bush. After 8 years of President Reagan and President Bush for 4 years, we had 12 years of spending cuts. Then we had, of course, President Clinton come to town and cut out another $500 billion in spending cuts.

So what we are on to is the tail end, so to speak, of 15 years of various spending cuts whereby programs like WIC, Head Start, title I for the disadvantaged, and many others, are only half funded, as are many programs in health research. That is the reason we just rejected, by way of extended debate, the Labor, Health, and Human Resources appropriations bill. For every dollar we spend over at NIH, we save the taxpayers $13.50.

So these money-saving programs have run into a frontal assault of a so-called political contract that is devastating to the functioning of our society.

I almost wish when it comes to the Department of Commerce that President Clinton had said we ought to get rid of the Department of Commerce. If President Clinton said we have to get rid of the Department of Commerce, the whole business community—all of that crowd that runs under the white tent for NAFTA and for GATT, and all the Republican crowd, all of those executives, that Business Round Table—would come running up here: ''What do you mean this Democratic President is trying to do away with the voice of business at the Cabinet table?'' You cannot find them today. Why? Because the Republicans thought of that idea.

Yes, labor is to have a voice at the Cabinet table, but not commerce, the business leadership. Agriculture is to have a voice at the Cabinet table, but they want to do away with the Department. You will not find agriculture in the Constitution. You will not find the Labor Department there. But you will find, under article I, section 8 of the Constitution, that the Congress is hereby authorized to regulate foreign commerce. We are doing away with constitutional responsibilities in a willy-nilly contract fashion. Now with the fall of the wall, we really look upon the State Department to promulgate our values the world around and capitalism the world around along with the Department of Commerce.

Very interestingly, that is exactly what they are doing. Secretary Christopher and Secretary Brown have been doing an outstanding job, but there is no acknowledgment or recognition of it whatever in this particular appropriation. Rather, they tried to do away with the technology, the advanced technology program, the manufacturing centers, the Office of Technology and all, as we go on down the list—these various endeavors to keep America competitive.

Our foreign policy, our security as a nation, our success in this global competition, rests like a stool on three legs. We have, on the one leg, the values of a nation which are very strong and are unquestioned. America voluntarily will try to feed the hungry in Somalia, voluntarily will try to set up democracy in Haiti, and now is trying to help, of course, in Bosnia and in the Mideast where they are meeting right now. With respect to our values, it is very strong, and with respect to our military leg, it is unquestioned. But with respect to the economic leg, over the past 45, almost 50 years, it is fractured and willingly so.

We set up the Marshall plan. We sent our money and our technology and our expertise to countries abroad in the conflict between capitalism and communism, and capitalism has won out. And we are all very grateful for that. But during that 50-year period, what we had to do was sort of sacrifice our economy and give up markets with the assault on market share. We had to give up markets to our friends in the Pacific rim, in Europe, and otherwise around, with a sort of nudist trade policy—running around here like ninnies hollering ''free trade, free trade''—when there was not any such thing, and it is not now. We all understand that.

But now with the fall of the wall comes the opportunity to rebuild the strength of the economy. Yes, in many instances, that means more government. I want a Senator to say that on the floor of this U.S. Senate. What we need is more in education, more in the inner-city restructuring, more in transportation, more in science and technology, and more in medical research. That is exactly what we are not doing in this particular measure here.

Let me go right to the point about the President's budget for which we get a gratuitous statement from our distinguished chairman of the subcommittee. He said again that the President's budget would not be in balance at the second coming, and had $200 billion deficits as far as the eye can see. If you want to read the gratuitous statement, you just look at the committee report of State, Justice, Commerce, and on page 4. I will quote this one sentence:

> The administration's request in a budget that made no attempt to balance the budget, not in 7 years, not in 10 years, not ever.

Here comes a committee report from a crowd that we could not get a single vote from to cut $500 million in spending and raise revenues to pay for some of these programs. Yes, we raised taxes on Social Security, and $25 billion of the increased revenue on Social Security we gave to what? To Medicare. They are running all over the Hill. ''It is going broke. It is going broke.'' Last year they said, ''What is the matter? Nothing is wrong with America's health programs. It is the best health system in the world. What is the matter?

I can show you the same crowd that they quote now as saying it is going broke in the year 2002. Last year, that same entity reported it was going broke in the year 2001. At least we got one year's grace out of the discipline that we set for spending cuts and revenue increases and foregoing programs.

Let me qualify. I speak about this budget because I can tell you here and now they act like they have a budget that we have to conform to so their budget balances in the year 2002. Absolutely false. For one, this particular Senator voted against that silly Reaganomics which at the time was called by the then majority leader a ''river boat gamble,'' the then Vice President as ''voodoo,'' and now we have ''voodoo'' all over again—going on all over this Hill. We do not have a sense of history whatever. I opposed that voodoo and proposed instead a budget freeze like the mayor of a city or the Governor of a State. What they do is just take this year's budget for next year. We would save billions. We could not succeed.

I then joined with the distinguished chairman of our subcommittee in Gramm-Rudman-Hollings, and we said let's have not only freezes, but we are going to have automatic spending cuts across the board. And that worked. Mr. President, it worked, until 1990, when they repealed it. And at 12:41 a.m., October 19, 1990, I raised a point of order against the repeal. And let the RECORD show who voted to repeal it.

Now they are running around and saying it did not work. They repealed it because it was working. It was going to cause cuts across the board. I went along in 1988 with tax reform in order to close loopholes.

So we had budget freezes, we had budget cuts, and we had loophole closings. And then, if you please, Mr. President, I came with increased taxes, a value-added tax proposed in the Budget Committee where I got eight votes, and I got Republican colleagues to go along. And we had a discipline trying to offset this deficit and an end of increased deficits as far as the eye can see.

Right now, the deficit that is projected—we will get it —but it is not 100 something, not 200. It is near $300 billion. I will enter the exact figure in the RECORD. All you need do is figure out how much the Government takes in and how much it spends and find the difference.

I do know that as a result the interest costs for the fiscal year beginning on Sunday, October 1, fiscal year 1996, the interest costs on the national debt—as a result of that voodoo and that riverboat gamble—is $348 billion. We only have 365 days a year, so that is $1 billion a day practically that we go down to the bank the first thing in the morning and borrow—$1 billion a day.

None of these plans, neither the Republican nor the Democratic plan, saves $1 billion a day.

I try my best to keep pointing this out to get level so we all speak the same language. Only this past week, I

wrote the Congressional Budget Office. I said that my friends on the other side of the aisle continued to talk in terms of a balanced budget by the year 2002.

I ask unanimous consent that I may include the letter in the RECORD dated September 25 from the Congressional Budget Office, June E. O'Neill.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 25, 1995.

Hon. ERNEST F. HOLLINGS,
U.S. Senate, Washington, DC.

DEAR SENATOR: This is in response to your letter of September 20 concerning CBO's scoring of the budget resolution for fiscal year 1996 adopted by the Congress. Because a budget resolution represents a general plan for future Congressional action rather than specific legislative proposals, CBO cannot provide estimates for a budget resolution in the same sense that it estimates appropriation bills or bills that provide changes in direct spending or revenues. CBO has compared the spending, revenues, and deficits proposed by the budget resolution with those projected by CBO in Chapter Three of its August 1995 report, The Economic and Budget Outlook: An Update. A copy of that report has been enclosed.

If you wish further details about this comparison, we will be pleased to provide them. The staff contact is Jim Horney.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill).

Mr. HOLLINGS. The Republican budget, the Kasich budget, the Gingrich budget, or whatever budget you want to call it that they are talking about balancing, has never been scored.

The distinguished chairman of the Budget Committee is here and we worked together when he was ranking member and I was chairman. I can tell you here and now, after we passed that budget in May, we sent over the assumptions so that the Congressional Budget Office could score it. Those scores have never been sent over. From time to time they have asked questions: If we do this, we save that; if we do this, we save that.

But we do not have a CBO-scored figure for President Clinton's budget and we do not have a CBO figure for the Republican budget.

Watching all of this as it occurs, at this particular time, I can guarantee you that it will not be balanced in the year 2002. And anybody who wants to bet me, pick out the odds and the amount. I will jump off the Capitol dome if this budget is balanced by the year 2002. I can tell you that here and now.

What happens is exactly what happened, as the distinguished Presiding Officer and I viewed it this morning in the Committee of Commerce. We were allocated $15 billion. What did we do? We took $8.3 billion that we have already allocated in the telecom bill. So we double-counted that already. Talk about smoke and mirrors. We are not going to have smoke and mirrors. I understand, of course, that in the Finance Committee they were $80 billion shy last week.

Someone said, no, they got up, meeting last night, to about $15 billion, and they are still trying to find it. But if they go through with the contract and do away with the Social Security tax increase, they will have to find another $25 billion. They are shy there.

I can go to welfare reform. We passed welfare reform. It was a $63 billion savings. The budget that they say is going to be balanced called for a $113 billion savings. That is $50 billion shy there. The agricultural and everything crowd said, no, we had not met our figure. It is smoke and mirrors.

So what you see now is the moment of truth. And I only mention this to get that moment of truth out. We ought to level with each other. You cannot get on top of this cancer of interest costs on the national debt unless you do all of the above. All of the above includes spending cuts, spending freezes, loophole closings, tax increases, and denying new programs.

We just voted earlier this week—I hated to vote against the distinguished Senator from Maryland, Senator MIKULSKI, and her AmeriCorps Program—but I can tell you now that that program was going to cost billions and billions. I did not think we ought to start new programs that we could not afford and specifically not start an AmeriCorps Program for education whereby in order to get 25,000 scholarships we had to do away with 346,000 student loans.

That is what we did. We took the money from the student loans and put it into a new program and talked about voluntarism. I happen to have been down there the Sunday after Hugo hit us in our own backyard in South Carolina. There was the mayor and me and we had 1,500 to 2,000 volunteers that were working in the rain. We asked for a show of hands and we had them from 38 States. People volunteer.

When little Mr. Segal called me about this particular program and said we already have 2,000 out there working in the flood year before last, I said, ''Young man, you have 2 million out there working without this program. You do not need a program at the Federal Government level to start voluntarism.''

So the pressures brought on this particular budget are really politically manufactured where we are not going to balance anybody's budget. We are just going to get rid of the Government. That has been the cry of the contract—that the Government is not the solution, the Government is the problem, the Government is the enemy.

So what you have here is a $283 billion estimated deficit for 1995. That is the accurate figure as between what we will take in and what we will spend. So let us not get high and mighty and start criticizing about how I got a balanced budget 7 years from now when people will be lucky to be around 7 years from now and they will know good and well they will come again.

I remember when we used to balance the budget year to year. In fact, President Reagan said, ''I'm going to balance that budget in a year.'' He got into Washington and said, ''Whoops, this is going to take me 3 years. I did not realize it was so bad.''

Here was a gentleman who was going to do it in a year. Then we got to 3 years. Then under Gramm–Rudman-Hollings we got to 5 years. Now, this crowd comes with 7 years. And I can tell you within the next election we will come and have—excuse me, President Clinton has already gotten to 10 years. Now he has come back to 9.

We are going up, up, and away; 15 years. Say anything except to do the job and tell the American people that we have to deny programs and we have to raise taxes. We have to cut spending. We have to freeze spending. We have to close loopholes. We have to do all of the above to save $1 billion a day. This particular budget that we have that we are working on at this particular time does not come near to saving $1 billion a day to get us really rid of any kind of deficit at any time during that 7-year period.

Now, Mr. President, the distinguished chairman of the subcommittee talks about philosophy—and I must touch on that and then we can go to these amendments—the philosophy here that they are trying to justify these programs to get things back to where they can do it as they please.

They said, if they really want to buy equipment, then they can do that. If they want to put policemen on the beat, then they can do that. It is the old adage that the best government is that closest to the American people, the Jeffersonian philosophy. And I generally adhere to that except through hard experience.

Within the field of law and law enforcement, we have had our experience. We had what you call the legal assistance enforcement program, LEAA, and that particular program gave block grants back to the States and communities. And when we looked around, we had—please, my gracious—down in Hampton, VA, they bought a tank and put it on the courthouse lawn and thought the courthouse was going to be attacked. The sheriff down in Alabama, he bought a tank because he was going to have crowd control. The Governor in Indiana, he bought an airplane so they could fly to New York and buy clothes. And they had all kinds of embarrassments where the money never got through to the policemen on the beat.

Now, there is no education in the second kick of a mule. We learned from hard experience. So we came around with community policing and policemen on the beat and said, in order to qualify, you have to come with a match of 25 percent. And it is working extremely well.

Now they come with the philosophy of getting the grants back, which reminds me—and I have, of course, a memory that is resented many, many

times. But I am referring to the stimulus bill where when President Clinton came to town, we were going to stimulate the economy. And the distinguished chairman of my subcommittee, now who believes in block grants, said, heavens above, ''We are going to use it for cemeteries, for whitewater canoeing, for fisheries, atlases, for studies of the sickle fin chub,'' and all these different other programs back at the local level. And the Senator slaughtered President Clinton's stimulus program—just killed it dead in its tracks here on the floor of the U.S. Senate.

Now we come with the philosophy: Whoopee, let us get the money back to the Government; we are not smart enough to do anything here in Washington; only the people back home are smart enough. So here we go again. Here we go again, changing the formative law and making it into block grants. Taking working programs like policemen on the beat and the Legal Services Corporation. Abolishing these laws in that sense and providing monies for a program that has already been derided in the most expert fashion by my distinguished chairman.

I can tell you now that we could not possibly go along with the block grants. I think the President said he is going to veto that particular approach. Maybe we can reconcile it. I hope some of the defects of this particular bill can be cared for in Senator HATFIELD's and my amendment. We worked until 1 in the morning on this particular amendment. I think it will meet generally with the approval of the colleagues.

And a reallocation here, I am grateful for that help. Of course, there are fundamentals still involved. And I will say it right to the point. We will be debating these things, as the distinguished chairman says. What we have done is really savaged Commerce and its programs, the State Department, and, more or less, force-fed a goose in Justice. When I say ''force-fed a goose in Justice,'' I look at the particular figures.

I can see that it took us from 1789 to 1983 or 1984 to get to a $3 billion Justice Department budget. But it has only taken us the last 15 years to quadruple, quintuple—excuse me—and go up, up and away to $16.95 billion in this particular 1996 appropriation. I know we have had various crime bills. I know we have had the problems and everything else of that kind. But I can tell you now that we have, with all the budgetary constrictions, to get a little bit better balance in this particular measure.

And in some of these, I am definitely of a mind where the Senator from Texas and I agree that you should not abuse the use of legal services money to sue the State and Governor and Legislature of New Jersey over welfare reform. We agreed that we could work the prisoners. I have worked prisoners as a Governor. I put in a laundry program. I put in a furniture repair program. I even had a Jaycee chapter as well as our educational programs behind the wall.

We agree on many, many things. But generally speaking, we did not have a chance to debate these things. Unfortunately, we had not conformed the appropriations to the basic statutes, whatever. We have just run willy-nilly through the programs trying to abolish departments and the working programs that have done so much for our society.

I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I thank the Chair.

Mr. President, the Senate is considering the appropriations bill for the Commerce, Justice and State Departments. It would be tempting to address this bill in the same fashion as I have other measures during this session which have contained drastic—indeed, draconian—spending cuts. The natural inclination is to talk about how the cuts will affect specific programs or policies, many of which are vital to the security of our Nation or the well-being of our people.

In this context, I would be led to talk about how the CJS appropriations bill, as reported by the committee, lops off more than $1 billion—I repeat, more than $1 billion—from the President's request for the foreign affairs agencies. There will be dramatic reductions in spending for the administration of foreign affairs, for the acquisition and maintenance of buildings, for the U.S. assessed contributions to the United Nations, for U.S. contributions to U.N. peacekeeping, and for international exchange programs.

I understand that the chairman of the Appropriations Committee may offer an amendment which may add additional funds to the foreign affairs account—which I applaud and will support. I must speak now, however, to the bill as reported by the committee.

Many of my colleagues know that these are programs and functions that are extremely important to me. When I recently announced my intention not to seek reelection to the Senate, some of my fellow Senators graciously came to the floor to say some very kind things about me. For that I am deeply grateful, and indeed humbled. One thing that struck me that day was how many of my colleagues mentioned my support for the United Nations, and the fact that I have carried a copy of the charter with me for many years.

I have not carried it with me all of this time just for show and tell. I carry it because I believe in it, and I think that it has represented—and continues to represent—one of our best hopes for international peace and security. If we proceed with the reductions in funding for the U.S. contributions to the regular and peacekeeping budgets, however, the charter will become nothing more than pretty words. There will be no point, and no joy, in carrying it in my pocket.

I have also been a consistent advocate of the U.S. Arms Control and Disarmament Agency [ACDA]. More than three decades ago, President KENNEDY and the Congress decided to create by statute the Arms Control and Disarmament Agency—which was then and remains now the only separate agency of its type in the world. If the Congress eviscerates ACDA and perversely rewards its employees by discharging them, we will do grievous damage to our ability to lead the world in effective arms control, to verify compliance of often hostile nations with their arms control obligations to us, and to deal effectively with new arms control and proliferation threats.

As I said moments ago, it would be tempting to continue at length about the impact of this and other bills on programs such as arms control, the United Nations and U.N. peacekeeping. Today, however, I want to discuss this bill in broader and more far-reaching terms. Whether or not the Senate cares to admit it, our decisions and actions this year are going to have a direct and negative impact on America's place in the world, and on our fundamental relationships with other world powers.

I am very proud of the U.S. record of leadership, achievement, and engagement in international relations. Twice in the 20th century, our Nation stood with its allies to fight on a global scale against aggression. During the cold war, the United States took the lead to contain the hegemonistic designs of the former Soviet Union. In the early 1990's, the United States led an international coalition of forces in turning back Iraq's illegal grab of Kuwait.

Equally as important, however, are the battles we did not fight—the conflicts that we avoided, the crises that we averted through diplomatic discussion and pressure. Even if we made mistakes from time to time, we were successful in all of these endeavors because of our belief in principles, our commitment to do what we thought right and our willingness to be actively engaged. Our decisions, policies, and programs were often costly in both human and material terms, but they made our world a safer place, and our Nation a better and more profitable place to live.

Our motivation sadly seems to have changed. Decisions are being made out of political expediency rather than sound judgment. Our impulse as politicians—particularly this year—is to rush willy-nilly to make budget cuts for their own sake, without regard to the consequences. Instead of using reason and analysis to construct a foreign policy, we are using calculators.

We must stop, think, and take a good hard look at how the United States can expect to project its power and influence under the circumstances now proposed. The State Department and the foreign affairs agencies—our Nation's eyes, ears, and voice to the world—cannot carry out its mission if they haven't the personnel, resources, and infrastructure required by the times.

It is not just a matter of doing more with less. I know the fiscal imperatives of our time, and appreciate that we are required to spend less and consolidate functions and responsibilities. The spending reductions in this bill are so severe, however, that the United States will be forced to close dozens of critical posts overseas, to renege on treaty commitments, and simply disengage from diplomatic activity. That is not sound fiscal policy, and it is certainly not leadership. It is isolationism. We are shutting ourselves off from the world, and our Nation's security and economy will suffer.

I do not use the term isolationism lightly. It is a serious charge, but one that I think is accurate. We must acknowledge the impact of this bill on our ability to work with other nations, and understand that by violating our international commitments, we will undermine our own national security. And make no mistake, this bill will force us to violate our international commitments and will have an adverse impact on virtually every aspect of the quality of life of our citizens.

Allow me to give some examples. In 1990, the Bush administration pledged that the United States would meet its treaty obligation to pay its U.N. dues in full, and that we would pay off our arrears. This bill would violate that pledge, and we will become the world's biggest deadbeat. At a certain point—which is fast approaching—we will lose our vote in the U.N. General Assembly because of the size of our arrears. This bill will also affect our obligations to NATO, to the International Atomic Energy Agency, to the International Telecommunications Union, and to the World Health Organization. In other words, we will have a diminished role to play in the critical fields of international security, nuclear nonproliferation, global communications, and international health.

We also would hamstring the work of lesser-known but important organizations such as the Hague Conference on Private International Law and the International Institute for the Unification of Private Law. Both of these are making vital contributions to simplifying and unifying the international legal system. How many times have we interceded on behalf of constituents in international adoptions, or in cases of parental abduction, or in the enforcement of legal judgments? This bill will afford our constituents less protection in such matters, and we will be responsible.

As a broader, practical matter, American citizens will be far less able to rely on U.S. Government support abroad as a result of this bill, whether it be in consular, commercial, or political matters. My guess, and it pains me to say this, is that the Congress will try to duck its responsibility for such an outcome. Instead of facing up to our constituents and explaining why they cannot find support or relief, Members will try to shift the blame to the State Department and our overseas employees.

Recently, some have found it fashionable—and even humorous—to characterize the Foreign Service as a coddled group of elitist intellectuals who shun hard work. As a former Foreign Service officer, I reject the characterization and am compelled to pay tribute to the dedicated and capable men and women who comprise our diplomatic corps. I know how hard they work, and how dedicated they are to serving our Nation's interests. Some of them, as we have just seen in Bosnia, have made the supreme sacrifice of giving their lives in service to the country.

Mr. President, we should honor these men and women and give them our full appreciation. At a minimum, we should see that they have a basic level of support to handle their ever-increasing responsibilities. We would never send our soldiers to war without support in depth; why would we send our diplomats—whose service is no less noble or patriotic than that of any soldier—to do political battle with virtually no support at all?

Mr. President, we are forsaking the lessons of history for political opportunism. The proponents of this bill will insist that they are not isolationists, but they must realize that their proposals will lead us into isolationism. We cannot influence the decisions of international bodies if we are not there to participate. And if we try to participate without paying our bills, no one will listen to us. That is isolation in the truest sense of the word. Mark my words: if we continue down the path we are now heading, our children will be left with one of two choices. The first is to accept that their forebears let their country become a xenophobic, second-rate power with a shrunken and insulated economy. The second is to refight the battles for which our generation already has paid so dearly. Neither, in my view, is an acceptable choice.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise for a couple of minutes. First, I ask unanimous consent, if Senator GRAMM and Senator HOLLINGS will consider this, that the Domenici-Hollings amendment on legal services follow the amendment to be offered by Senator HATFIELD.

Mr. HOLLINGS. We have no objection.

Mr. GRAMM. Reserving the right to object, I have been talking to several other Members. We are trying to work out an agreement where we might actually reduce it down to four amendments that we would have on the bill. The Senator's would be one of those amendments, but it may very well be—as you know, there is competition for these offsets. Before I can accept that unanimous-consent request, I have to go back and talk to the people that I am talking to on the other side of the aisle.

So if the Senator will withhold, I will go back and talk to them and maybe look at these offsets and see if we can work it out. I want to be sure that the same resources are not being promised to two or three different places.

The PRESIDING OFFICER. Does the Senator withdraw his unanimous-consent request?

Mr. DOMENICI. No, I reserve it for a moment. I will just stay here in any event, I say to the Senator. If we do not agree to it, I will be here until Senator HATFIELD's amendment is disposed of and then seek the floor. I withhold my request.

Mr. President, might I just comment to my good friend Senator HOLLINGS, I want to share a thought with him. He was talking about jumping off the Capitol at the end of this year if we do not have a balanced budget.

Mr. HOLLINGS. No, when you say it is going to be balanced.

Mr. DOMENICI. What I suggest to my good friend, maybe in the meantime, there are those hang gliders. Our Governor does that.

Mr. HOLLINGS. Yes.

Mr. DOMENICI. You go off and learn how to jump off mountains and you do not crash.

Mr. HOLLINGS. Right.

Mr. DOMENICI. Since I am so sure we are going to get one, I would not want the Senator to fall off the Capitol. I would like him to get trained a little so when he jumps off, he will be all right. It is just a constructive idea because I have so much respect and admiration for the Senator.

Mr. HOLLINGS. I will put you in there with me.

Mr. DOMENICI. If you are good, I will join you.

Mr. HOLLINGS. Yes.

Mr. DOMENICI. Mr. President, I just want to comment on Senator HOLLINGS's rather lengthy and, clearly, from his standpoint, a very important speech about a balanced budget.

I first want to say, if we accomplish in the next 45 days what was in the budget reconciliation instruction, and if we stick to the caps on appropriations, which we have done, I understand even points of order have been sustained on the floor without even the thought of exceeding the caps, my guess is the unexpected result will be the Congressional Budget Office will tell us that we are on a path to a balanced budget, and we will get there.

In fact, I would not be surprised if when we finish that exercise that they do not tell us that there is, indeed, some kind of a small surplus. And I just want the Senators who are voting for all of that to know they did price out that budget resolution. They priced it out so that they could tell us that, in fact, there was going to be a rather substantial economic dividend that put us in the black. I know my good friend does not agree with that. He did not vote for it and does not support it. I

think it is a very historic budget resolution. In all respects, it does what the Senator suggests, save one. In all respects, it does the kinds of things we said we ought to do. It just does not raise taxes. The rest is there—the reform and the elimination of programs, the suggestions, the freezes—they are all part of this very difficult effort.

I yield the floor.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point the actual record of the gross Federal debt beginning in 1945 going right on down to the estimated 1996 debt, and the real deficit going from 1945 down to 1996 with the gross interest costs, which has only been computed to be included since 1962.

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

Year	Gross Federal debt (billions)	Real deficit	Change (in percent)	Gross interest
1945	260.1	.....	(.....)	.....
1946	271.0	+10.9	(+4.2)	.....
1947	257.1	−13.9	(−5.1)	.....
1948	252.0	−5.1	(−2.0)	.....
1949	252.6	+0.6	(.....)	.....
1950	256.9	+4.3	(+1.7)	.....
1951	255.3	−1.6	(−0.6)	.....
1952	259.1	+3.8	(+1.5)	.....
1953	266.0	+6.9	(+2.7)	.....
1954	270.8	+4.8	(+1.9)	.....
1955	274.4	+3.6	(+1.3)	.....
1956	272.7	−1.7	(−0.6)	.....
1957	272.3	−0.4	(−0.1)	.....
1958	279.7	+7.4	(+2.7)	.....
1959	287.5	+7.8	(+2.8)	.....
1960	290.5	+3.0	(+1.0)	.....
1961	292.6	+2.1	(+0.7)	.....
1962	302.9	+10.3	(+3.5)	9.1
1963	310.3	+7.4	(+2.4)	9.9
1964	316.1	+5.8	(+1.8)	10.7
1965	322.3	+6.2	(+2.0)	11.3
1966	328.5	+6.2	(+1.9)	12.0
1967	340.4	+11.9	(+3.6)	13.4
1968	368.7	+28.3	(+8.3)	14.6
1969	365.8	−2.9	(−0.8)	16.6
1970	380.9	+15.1	(+4.1)	19.3
1971	408.2	+27.3	(+7.2)	21.0
1972	435.9	+27.7	(+6.8)	21.8
1973	466.3	+30.4	(+7.0)	24.2
1974	483.9	+17.6	(+3.8)	29.3
1975	541.9	+58.0	(+12.0)	32.7
1976	629.0	+87.1	(+16.1)	37.1
1977	706.4	+77.4	(+12.3)	41.9
1978	776.6	+70.2	(+9.9)	48.7
1979	829.5	+52.9	(+6.8)	59.9
1980	909.1	+79.6	(+9.6)	74.8
1981	994.8	+85.7	(+9.4)	95.5
1982	1,137.3	+142.5	(+14.3)	117.2
1983	1,371.7	+234.4	(+20.6)	128.7
1984	1,564.7	+193.0	(+14.1)	153.9
1985	1,817.6	+252.9	(+16.2)	178.9
1986	2,120.6	+303.0	(+16.7)	190.3
1987	2,346.1	+225.5	(+10.6)	195.3
1988	2,601.3	+255.2	(+10.9)	214.1
1989	2,868.0	+266.7	(+10.3)	240.9
1990	3,206.6	+338.6	(+11.8)	264.7
1991	3,598.5	+391.9	(+12.2)	285.5
1992	4,002.1	+403.6	(+11.2)	292.3
1993	4,351.4	+349.3	(+8.7)	292.5
1994	4,643.7	+292.3	(+6.7)	296.3
1995	4,927.0	+283.3	(+6.1)	336.0
1996 est.	5,238.0	+311.0	(+6.3)	348.0

Mr. HOLLINGS. Mr. President, the distinguished chairman of the Budget Committee is talking and the Senator from South Carolina is talking, but the facts speak more loudly than each of us. For example, the gentleman talking then was the President when he came to town. In 1980, we were paying interest costs of $74.8 billion on a national debt of over 200-some years of history, with all the wars from the Revolutionary War up to and including World War I, World War II, Korea and Vietnam. Now, it is estimated to go to $348 billion just in interest costs. That was the crowd that came and talked and said they were going to save us from waste, fraud, and abuse. In fact, I got an award from the Grace Commission, working with them. By 1989, we had to report it, and 85 percent of the Grace Commission recommendations had been implemented.

However, wanting to do away with waste, as we talked—look what actually occurred. It has gone to the greatest waste in the history of the Government—from $74.8 billion to $348 billion. Over $200 billion just in increased in costs for nothing. If we had the two-hundred-seventy-some billion dollars here now for these things, you would not have extended debate on labor, health and human resources. We would have the money for those programs. You would not have an amendment on Legal Services. We would have provided for it and for cops on the beat and for the State Department, and the strengthening of our technology, and all.

My point is that we keep on talking, and we get estimates from the CBO and all of these econometric models and all the economists that we keep following and, as old Tennessee Ernie said, we are another day older and deeper in debt.

I yield the floor.

Mr. SIMON. Will my colleague yield for a moment?

Mr. HOLLINGS. Yes.

Mr. SIMON. Mr. President, I simply want to acknowledge that the person who educated me on gross interest over against net interest was the Senator from South Carolina.

Administrations like to put net interest into their budgets. We do not do that with any other function of Government. We do not say the Justice Department took in so many dollars in fines and everything, therefore, their budget is that much less. It is the gross expenditure of the Justice Department. But because administrations like to fuzz things up a little bit, they were using net interest. The real figure is gross interest. I want to acknowledge Senator FRITZ HOLLINGS for having educated me on this. And I hope he is educating a lot of other people, too.

Mr. HOLLINGS. I thank my distinguished colleague.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRAMM. Mr. President, in a moment we will have an amendment by the distinguished chairman of the full committee, which is going to shift the allocation among the subcommittees providing additional funding for Commerce, State, Justice and in the process solving many of the problems that hold this bill up.

While we are waiting on that—and I understand the distinguished Senator from West Virginia has now signed off on that amendment—I want to say, as the new chairman of this subcommittee, that I have had an opportunity, for the first time, to work with the distinguished Senator of the full committee, Senator HATFIELD, in that capacity. I think it is fair to say that the success that I have had in bringing the bill to this point is, in no small part, due to the assistance that I have had from the distinguished Senator from Oregon. I simply want to say that the Senator from Oregon has not only been very helpful to me in this bill, but I think he epitomizes what the skilled and dedicated legislator is all about.

I had a great deal of respect for Senator HATFIELD before we started trying to put together this very difficult bill. I have even more respect for him now. In case we have the miracle of miracles and we work out an agreement and this bill quickly becomes law and everybody scatters to the far ends of the continent, and maybe in some cases to the far ends of the world, I just wanted to say how much I appreciate the distinguished chairman for the personal help and council he has given to me. He certainly is deserving of our thanks and our appreciation.

Let me, in waiting for the amendment to be ready, simply 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. GRAMM. 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. GRAMM. I ask unanimous consent that the pending amendment be temporarily set aside for the purpose of considering a technical amendment which has been cleared on both sides.

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

AMENDMENT NO. 2813

(Purpose: To make certain technical corrections)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2813.

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

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

The amendment is as follows:

On page 15, line 23 strike ''148,280,000'' and insert in lieu thereof ''168,280,000''.

On page 15, line 24 strike ''and''.

On page 16, line 2 after ''103–322'' insert ''; and of which $2,000,000 shall be for activities authorized by section 210501 of Public Law 103–322''.

On page 20, line 8 strike ''$114,463,000'' and insert in lieu thereof ''$104,463,000''.

On page 115, line 9 strike ''$40,000,000'' and insert in lieu thereof ''$22,000,000''.

On page 123, line 1 strike ''$3,000,000'' and insert in lieu thereof ''300,000''.

On page 151, line 16 strike ''(1)'' and insert ''(2)''.

On page 151, line 18, strike ''(2) and (3)'' and insert ''(3) and (4)''.

On page 151, line 19 strike ''(2)'' and insert ''(3)''.

On page 152, line 13 strike ''(3)'' and insert ''(4)''.

On page 153, line 14 strike ''(4)'' and insert ''(5)''.

On page 154, line 21 strike ''(5)'' and insert ''(6)''.

On page 155, line 3 strike ''(6)'' and insert ''(7)''.

On page 155, line 9 strike ''(7)'' and insert ''(8)''.

On page 155, line 19 strike ''(8)'' and insert ''(9)''.

On page 151, line 16 after ''Sec. 614.'' insert ''(1) This Act may be cited as the ''Equal Opportunity Act of 1995.''

On page 161, line 25 strike ''$115,000,000'' and insert in lieu thereof ''$140,000,000''.

Mr. GRAMM. Mr. President, the bill that is currently before the Senate, H.R. 2076, fiscal year 1996 Commerce, State, Justice appropriations bill, as reported by the Senate Appropriations Committee, contains several inadvertent errors. This amendment is purely technical in nature and is intended to accurately reflect the amendments which were adopted in both subcommittee and full committee.

This amendment has been cleared by the distinguished floor manager on the other side. It is simply necessary to straighten out all of the drafting errors that have been created in getting the bill to this point.

Mr. HOLLINGS. It is cleared on this side.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2813) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. GRAMM. Mr. President, I ask unanimous consent that the corrections to the committee report that I send to the desk be printed in the RECORD.

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

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

ERRATA: SUBCOMMITTEE ON COMMERCE, JUSTICE, STATE, THE JUDICIARY AND RELATED AGENCIES REPORT 104–139

Page 20, paragraph 2, sentence 2 should read:

''Of these funds, $275,000,000, including $107,720,000 in program increases, are derived from the violent crime reduction trust fund [VCRTF], as authorized in section 521 of Senate bill 735.''

Page 27, under Border Control Systems Modernization, the first sentence should read:

''A total of $158,500,000 is recommended, of which $104,453,000 is provided from the violent crime reduction trust fund, to continue the border system modernization effort started last year.''

Page 30, last paragraph, delete the following report language:

''The Committee recommendation assumes that the 300 agents relocated to the front lines of the border will include the agents noted by the Department as well as agents currently assigned to the San Clemente and Temecula checkpoints in California.''

On page 37, the entry for the Committee recommendation for State and local block grant/COPS should be $1,690,000. A new entry should be added for Police corps. 1995 appropriation is zero. 1996 request is zero. House allowance is zero. Committee recommendation is $10,000.

On page 60, under National Oceanic and Atmospheric Administration the paragraph should read:

''The Committee recommends a total of $1,866,569,000 in new budget (obligational) authority for all National Oceanic and Atmospheric Administration [NOAA] appropriations. This level of funding is $45,135,000 below fiscal year 1995, and is $230,140,000 below the budget request. This recommendation is $92,159,000 above the House allowance, and includes transfers totaling $55,500,000 and fees totaling $3,000,000.''

On page 68, under National Marine Fisheries Service the paragraph should read:

''The Committee recommendation provides a total of $288,567,000 for the programs of the National Marine Fisheries Service [NMFS] for fiscal year 1996. This amount is $27,261,000 less than the budget request, and is $19,917,000 more than the current year funding level. The amount provided under the Committee recommendation is $37,240,000 above the House allowance. The Committee has recommended funding, as shown in the preceding table, for a variety of important research and information programs which are designed to promote a sustainable use of valuable marine resources.''

Page 77, under Fishing Vessel Obligations Guarantees:

''Committee recommendation—250,000.''

Page 78, under National Technical Information Service, second sentence should read: ''This is a decrease of $7,000,000 below the current available appropriation.''

Page 86, under U.S. Sentencing Commission, first sentence should read: ''The Committee recommends $7,040,000 for the salaries and expenses of the U.S. Sentencing Commission for fiscal year 1996.''

Page 112, under Radio Construction: ''Committee recommendation—22,000,000.''

The bill includes $22,000,000 in new budget authority for the ''Radio construction'' account for fiscal year 1996. This amount is $63,919,000 less than the budget request, $47,314,000 less than fiscal year 1995 funding levels, and $48,164,000 below the House allowance.

Page 113, last paragraph, last line should read: ''FTUI, and Center for International Private Enterprise (CIPE)—in equal amounts.''

Page 133 under Department of State Acquisition and Maintenance of Buildings Abroad, line 1 should read: ''The Committee recommends a rescission of $140,000,000 from the projected end-of-year carryover balances in the ''Acquisition and maintenance of buildings abroad'' account at the State Department.''

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

AMENDMENT NO. 2814 TO THE COMMITTEE AMENDMENT ON PAGE 2, LINE 9, THROUGH PAGE 3, LINE 5

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

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] for himself and Mr. HOLLINGS, proposes an amendment numbered 2814, to the committee amendment on page 2, line 9, through page 3, line 5.

Mr. HATFIELD. 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:

At the end of the committee amendment beginning on page 2, line 9, insert the following:

The amount from the Violent Crime Reduction Trust Fund for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs is reduced by $75,000,000.

The following sums are appropriated in addition to such sums provided elsewhere in this Act,

For the Department of Justice, Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, $75,000,000.

For the Department of Commerce, International Trade Administration, ''Operations and Administration'', $46,500,000; for the Export Administration, ''Operations and Administration'', $8,100,000; for the Minority Business Development Agency, ''Minority Business Development'', $32,789,000; for the National Telecommunication and Information Administration, ''Salaries and Expenses'', $3,000,000; for the Patent and Trademark Office ''Salaries and Expenses'', $26,000,000; for the National Institute of Standards and Technology, ''Industrial Technology Services'', $25,000,000; for the National Institute of Standards and Technology, ''Construction of Research Facilities'', $3,000,000; and the amount for the Commerce Reorganization Transition Fund is reduced by $10,000,000.

For the Department of State, Administration of Foreign Affairs ''Diplomatic and Consular Programs'', $135,635,000; for ''Salaries and Expenses'', $32,724,000; for the ''Capital Investment Fund'', $8,200,000.

For the United States Information Agency, ''Salaries and Expenses'', $9,000,000; for the ''Technology Fund'', $2,000,000; for the ''Educational and Cultural Exchange Programs'', $20,000,000 of which $10,000,000 if for the Fulbright program; for the Eisenhower Exchanges, $837,000; for the ''International Broadcasting Operations'', $10,000,000; and for the East-West Center, $10,000,000.

For the United States Sentencing Commission, ''Salaries and Expenses'', $1,460,000; for the International Trade Commission, ''Salaries and Expenses'', $4,250,000; for the Federal Trade Commission ''Salaries and Expenses'', $9,893,000; for the Marine Mammal Commission, ''Salaries and Expenses'', $384,000; for the Securities and Exchange Commission, ''Salaries and Expenses'', $29,740,000; and for the Small Business Administration, $30,000,000.

Mr. HATFIELD. Mr. President, first I want to express my deep appreciation for the kind words expressed by the chairman of our subcommittee, Senator GRAMM of Texas, and to say in response that it has been one of those wonderful occasions and experiences that sometimes happen in the Senate, and that is when we get down together one-on-one to negotiate and to try to find out the other person's perspective, the other person's viewpoint, the other person's priorities, and come to a new appreciation that this indeed, is one of the strengths of this institution—its

diversity. And at the same time there is diversity in this institution, it does not mean that it means stalemate. It does not equal stalemate diversity.

I could find no person with greater sensitivity and words indeed than that personified by Mr. GRAMM in working out the differences and also, at the same time, working for the same goal.

I come to appreciate, from time to time, the strength of diversity. I sometimes also think that if I listened more, spoke less, I would hear what the other person might be saying a little more clearly than depending upon imagery or upon labels such that we oftentimes use in shortcut methods. That also does not build for personal relationships.

Mr. President, I have sent to the desk an amendment on behalf of Senator HOLLINGS, myself, and on behalf of the Appropriations Committee in general.

I filed an amended application for the Commerce, Justice and State bill that allows an additional $500 million in budget authority and $325 million in outlays to be spent on the bill.

Now, this begs for, again, a quick description again of our process. I know beyond the beltway that is not necessarily perhaps a very high item of interest. For our own colleagues to understand that at the beginning of any appropriations cycle that the chairman of the Appropriations Committee, along with consultation and along with staff and so forth, creates what we call the 602(b) allocations.

Now, we do not follow the House of Representatives. In other words, we have our own methods and our own priorities and so forth. So that reflects basically, once the committee has adopted the chairman's mark, that represents basically a committee action.

In this particular case, we had $1 billion—I am talking now in round numbers—$1 billion in a 602(b) allocation to this subcommittee headed by Senator GRAMM and with the former chair of the committee and now the ranking member, Senator HOLLINGS of South Carolina, $1 billion under the House of Representatives.

Now, there were obvious problems just from that allocation. These people had to work within that framework once adopted by the committee. They did so. That meant that they had to not just reduce and diminish some of the expenditures that have been built up over a period of time, but they also had to select between agencies and between programs within agencies.

Now, when we go to the House of Representatives for a conference ultimately as we do with each bill, the chairman of the House committee, ROBERT LIVINGSTON of Louisiana, and I have the responsibilities under the Budget Act that we have to find a way to bring those two committees together on an agreed target figure.

Normally, what we do is to strike the difference. We say, all right, that is $500 million for the Senate in this case and $500 million less for the House. You take that as your target figure to make your adjustments.

In this particular case, probably one of the most severely hit of all subcommittees in the Commerce, Justice, State Subcommittee, and they had an extraordinarily difficult time in the Senate to even get in the ballpark of meeting with the House floor conference.

Why wait until that moment when Congressman LIVINGSTON and I have to get together to fix that target, why not do it now? That is all this amendment represents. We are saying, in effect, we had the previous bill, HUD, independent agencies. We had to adjust that downward in terms of meeting a figure to the House figure for HUD, independent agency, the Senate HUD, independent agency, to get together for conference.

What I have done at this point is to advance that moment of time and decision that would have to take place with Congressman LIVINGSTON and myself, taking from the HUD bill we have just completed on the floor and transferring that budget outlay figure that we have just announced here this afternoon at $325 million.

I had a reserve fund in the so-called BA that we could draw from in the full committee, and we drew from that, to create now this amendment. In other words, this amendment does not add a single penny to our overall commitments under the budget resolution.

What we are doing is making a fine adjustment that has to occur anyway, and we are doing it in advance of the time in order to make this bill more acceptable and to be a broader base of support for the bill, but also to be more equitable and fair in the bill.

My phone has been ringing off the hook for the last 3 weeks since the committee reported the bill. I know that it has been so in the case of Senators GRAMM and HOLLINGS, as well, and probably many others who serve on the Appropriations Committee.

Now, this small increase of funds, we have made a printout of each account to which we are adding funds in the Commerce Department, the State Department, and some of agencies funded under this bill. We also have reiterated our commitment for the Byrne-formula grants in the Justice Department. Each member has before him or her the full amendment in detail. I will only refer to that.

Now, what this overall amendment does is to keep the spending levels closer to a freeze and closer to actions taken by the authorizing committees.

So this is not just trying to get an adjustment for this bill here in the Senate, and for the conference to come with the House, but also to tie in with the authorized levels provided by Senator HELMS in the case of Foreign Relations Committee and the State Department.

You will find on this printout such examples, if you look at the columns where this so-called outlays and this adjustment takes place in the last two columns of the figures. As an example, we are taking domestic and counselor programs and funding them with replacement of money at about $115.8 million at the Senate Foreign Relations Committee authorizing level. That is how you work these charts back and forth.

The amendment provides additional funds for six independent agencies. Those six independent agencies are U.S. Sentencing Commission, International Trade Commission, Federal Trade Commission, Marine Mammal Commission, Securities and Exchange Commission, Small Business Administration.

Now, in the case of the Federal Trade Commission and the International Trade Commission and all of these, what we have done is to have a freeze minus 10 percent in the amendment. That contrasts to a freeze minus 20 percent which was in the bill that is now before the Senate. That, again, is representative of another type of handling of these additions.

In the case of the Small Business Administration, we propose to add an additional $30 million, which should be sufficient funding to administrator the loan volume recommended in the committee bill.

Again, we refer back to not only our previous work but to authorizing committees as well. There are many competing demands in this bill and it makes it very difficult, even with this amendment.

Let me make very clear, this amendment does not solve all of our problems. But I do think it can solve sufficient problems to get this bill wrapped into the CR, down to the White House, eventually to be vetoed. I have to be straightforward. My impression, maybe this amendment is going to help in some way alleviate that probability that is now very clear that the President intends to veto this bill.

Maybe we can again, hopefully, make that a lesser possibility than it is under the bill that we have before us.

So, Mr. President, I am not going to go on about these changes. I am very happy to respond to specific questions that people may have, but I do want to say that it has been through the cooperative spirit of the leadership of this subcommittee and the leadership of the full Senate that we are hoping, today, to offer this amendment, have it adopted, and thereby move on to address other issues in this bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me rise in gratitude to our distinguished full committee chairman and also the subcommittee chairman for allowing us to proceed, and to note a softening and thawing on behalf of the distinguished subcommittee chairman, which is very becoming.

Senator HATFIELD has really saved us. I read Mary McGrory this morning, and she said Ross Perot had given

President Clinton oxygen. I feel like, in this amendment, which I am proud to cosponsor, we are getting oxygen. It keeps some very important programs alive.

The distinguished full committee chairman, Senator HATFIELD, has been very sensitive and very understanding and very realistic. There is none of this kind of pork or any of these other kind of things. This amendment adds back funds to high priority commerce programs—$46.5 million for the International Trade Administration—we just had lunch on yesterday with the Special Trade Representative. We are trying to get more competitive and more realistic in a trade policy in this country, and we need these additional funds to just bring them up to where they would be at a freeze.

There is $32 million for the Minority Business Development Agency; $25 million for NIST—the National Bureau of Standards, manufacturing centers, the information technology centers; $8.1 million for the Export Administration; and finally for the front line—after the fall of the wall—namely, our State Department, which the distinguished ranking member, Senator PELL, has just addressed. $177 million is added to their operating accounts to bring them back to the level proposed in S. 908, Senator HELMS' Foreign Relations Authorization Act.

For the USIA, we are adding back $20 million for the international education exchanges, including $10 million for the Fulbright program. We also add back funds for the USIA operations, international broadcasting, and technology modernization. And for the independent agencies like the Federal Trade Commission, the Small Business Administration and others, we have added back certain funds that could be available now with this new allocation.

I thank particularly the staffs on both sides, Scott Gudes, Mark Van Der Water, David Taylor, Scott Corwin, and Steve McMillen, who worked until about 2 o'clock this morning, trying to bring this about.

I am very much appreciative to Senator HATFIELD, and I hope we can adopt this amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I express my gratitude to the chairman of the full committee and to the Senator from South Carolina for addressing a concern I have been discussing with them for many months, the East-West Center. It is a very important national asset, and I thank them very much.

For those not familiar with the East-West Center, it is a world-class American institution dedicated to promoting better understanding and relationships with the countries of Asia and the Pacific.

It was created by a bipartisan government 35 years ago that foresaw the need for a better understanding between the United States and the Asia-Pacific region. The importance of the East-West Center is important now more than ever.

The Asia-Pacific region is the fastest growing region in the world. Today, over half of the population of the world is in Asia. This region has about 20 percent of the land mass and over 60 percent of the gross product of the world.

For every jumbo jet that flies over the Atlantic Ocean, four fly over the Pacific Ocean. Our trade with Asia is four times larger than our trade with Europe.

It has become the fastest growing economy. Trade with Asia provides nearly 3 million jobs to Americans and, by the year 2003, our exports to Asia will be more than double those to Europe.

I would like to share two concrete examples of the East-West Center's success in the Asia-Pacific. There was a time when our relations with Indonesia were next to nil. Our Ambassador was recalled. There were no exchanges or any formal conversation.

Indonesia cut off all ties with the United States. It would not permit any of its citizens to become Fulbright scholars, but it continued to send men and women to the East-West Center.

The same thing with Burma. Our relationship with Burma over the years has been hot and cold. At one time, Burma sent our Ambassador home and closed our consulates. But Burma sent students to the East-West Center.

It was convinced that this was a unique spot on the globe where men and women could freely discuss issues of the day.

The East-West Center now has 42,000 alumni globally; a network of distinguished colleagues in government, business, the media, academia, and the professions.

The student degree program, with 4,000 graduates, is a major component of cultural and technical interchange at the Center.

As you can see, the East-West Center is a national resource that must be funded at a responsible level. I ask my colleagues to support this national institution.

Mr. AKAKA. Mr. President, I am pleased to join the senior Senator from Hawaii, the senior Senator from Utah, the senior Senator from Alaska, the distinguished ranking member of the subcommittee, and the chairmen of the subcommittee and full committee, in offering this amendment to restore funding for the East-West Center.

Over the past 35 years, the East-West Center has established its reputation as one of the most respected and authoritative institutions dedicated to the advancement of international cooperation throughout Asia and the Pacific. The Center plays a key role in promoting constructive American involvement in the region through its educational, dialogue, research, and outreach programs. The Center addresses critical issues of importance to the Asia-Pacific region and United States interests in the region, including international economics and politics, energy and natural resources, population, the environment, technology, and culture.

The achievements of the East-West Center bear repetition. Since its creation by Congress in 1960, the Center has welcomed over 53,000 participants from over 60 nations and territories to research, education, and conference programs.

Scholars, statesmen, government officials, journalists, teachers, and business executives from the United States and the nations of Asia and the Pacific have benefited from studies at the Center. These government and private sector leaders comprise an influential network of East-West Center alumni throughout the Asia-Pacific region. I continually encounter proud Center alumni in meetings with Asian and Pacific island government officials and business leaders.

The success of the Center as a forum for the promotion of international cooperation and the strength of the positive personal relationships developed at the Center are reflected in the prestige it enjoys in the region. Japan, Korea, Taiwan, Indonesia, Fiji, Papua New Guinea, Pakistan, and other American allies in the region—over 20 countries in all—support the Center's programs with contributions. The Center has also received endowments from benefactors in recognition of its contributions and value.

Mr. President, the countries of Asia and the Pacific are critically important to the United States and our political and economic interests into the next century. By the year 2000, the Asia-Pacific region will be the world's largest producer and consumer of goods and services. The markets for energy resources, telecommunications, and air travel are fast becoming the world's largest.

Future economic growth and job creation in the United States is closely linked to our ability to identify and secure opportunities in the world's fastest growing economies. The East-West Center provides leadership and advice on economic issues, including APEC [Asia Pacific Economic Cooperation] and the U.S.-Pacific Island Joint Commercial Commission.

Mr. President, given the strategic and economic importance of the Asia-Pacific region to U.S. interests, and the credibility and trust enjoyed by the East-West Center in the region, I believe it is unwise to slash funding for the Center. We have closed, or are in the process of closing, AID offices in the region. These actions are sending signals to our friends and others in the region that our interest is waning.

For over 3 decades we have invested in the East-West Center, creating an important resource that promotes regional understanding and cooperation, provides expertise on complex regional issues, and advises U.S. foreign policy decisionmaking. If we fail to provide

the Center adequate funding and a reasonable transition period to self-sufficiency, we will discard a valuable resource—a first-class institution that has earned an international reputation for its research scholarship and academic programs. Given the increasing significance of Asia and the Pacific islands to our interests and security, such action is short-sighted and ill-advised. I urge my colleagues to support our amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, one of the things that is deficient, in my view, about the legislation before us—and I will shortly send an amendment to the desk about it that I think we have worked out—and that is, in fairness to my friend from Texas, the chairman of the committee, in his, if I have this correct, 602(b) allocation, initially he got less money in that allocation. I am not being critical of the chairman. He got less money in that allocation than was needed to fund some of the things I think he believes should have been funded, and I strongly believe, along with Senator HATCH and a number of my Republican as well as Democratic colleagues, should be funded.

In this case the present appropriations bill before us funds the Violence Against Women Act law at $75 million less than is needed. It is funded at $100 million. I am going to shortly send an amendment to the desk to increase that funding. I ask to be corrected if I am mistaken here, but I will, on behalf of Senator GRAMM and myself, send to the desk, along with Senators HATCH and WELLSTONE and others, an amendment that would restore the $75 million in this account.

I understand the reason we have been able to work this out is a consequence of the generosity of the distinguished chairman of the full committee and the ranking member of the subcommittee, this subcommittee, who have come up with this agreement that, in turn, has had the effect of providing an additional $75 million for the violent crime trust fund. It is that from which this is funded.

Of all the legislation I have ever worked on here in the Senate, this one, the Violence Against Women Act, has been, in my case, my first priority and proudest accomplishment. When it passed the Senate with overwhelming bipartisan support I was hopeful that support would be maintained. Frankly, I lost faith there for a little while when the appropriations bill first came out.

I am actually waiting for the amendment so I can send it to the desk. I will explain the rest of it while I am waiting.

Mr. DOMENICI. Will the Senator yield for an observation?

Mr. BIDEN. I will be happy to yield for an observation.

Mr. DOMENICI. I do not raise this officially, but I do not believe the Senator can offer an amendment at this point. I do not believe this amendment is amendable at this point.

Mr. BIDEN. Mr. President, I say to my friend from New Mexico, I have overwhelming confidence in his parliamentary skills. If he says it, there must be a likelihood he is correct, in which case I make a parliamentary inquiry: When is it appropriate for the Senator from Delaware to introduce an amendment that would, in fact, restore the $75 million to the violence against women account?

The PRESIDING OFFICER. When we dispose of the Hatfield amendment.

Mr. BIDEN. That is a very useful piece of information, Mr. President. I thank him very much, and, if it is appropriate, I ask unanimous consent that, upon disposal of the Hatfield amendment, I be recognized to offer my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, I will not object if I can add my unanimous consent to it that immediately thereafter we have a Domenici amendment on legal services.

Mr. BIDEN. I have no objection.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I will just take a moment, Mr. President.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I say to my colleague from New Mexico, I will just take a minute.

Mr. DOMENICI. No problem.

Mr. WELLSTONE. Mr. President, I want to just emphasize what the Senator from Delaware said, including being an original cosponsor to this amendment. I will wait. I am very pleased an agreement has been worked out. I will wait until the Senator from Delaware introduces his amendment. My understanding is we have a good agreement here. At that point in time I would like to talk about the importance of what we have done.

So I just ask unanimous consent I be included as an original cosponsor.

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

Is there further debate on the amendment?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I would like to ask Senator HATFIELD, the sponsor of the amendment, a clarification question.

First of all, I strongly compliment my colleague on the amendment. I certainly intend wholeheartedly to support it. Under Small Business Administration you have an overall $30 million add-on. Am I correct that in the specifics, that for women's outreach programs, you have increased that to $4 million?

Mr. HATFIELD. The Senator is correct.

Mr. DOMENICI. And for the information centers, women's counselling, $200,000. Is that correct?

Mr. HATFIELD. The Senator is correct.

Mr. DOMENICI. I thank the Senator.

Mr. HATFIELD. Those are within the overall 30.

Mr. DOMENICI. I thank the Senator for his answers. I want to commend him for that.

I want to suggest that, if there is any area that we are being successful as a nation in encouraging new entrants into the business field, it is women ownership of business. It is skyrocketing in America, and some of it has to do with very effective programs when you are bringing women in and they are talking about what they might want to do in business, and providing a lot of information about how to obtain loans and the like. I think we ought to maximize that effort at this point.

I thank the Senator for that.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 2814) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I thank Senator GRAMM, and Senator HOLLINGS particularly for his cosponsorship.

I also want to thank Scott Gudes, Scott Corwin, David Taylor, and Mark Van de Water, four members of our respective staffs who sat up and worked this out in detail until about 2 a.m. this morning.

They certainly deserve the accolades and appreciation of the whole Senate.

Mr. HOLLINGS. I want to particularly thank Mark Van de Water of Senator HATFIELD's staff. We really appreciate it very, very much.

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I would like to ask unanimous consent that anyone who wishes to be added as a cosponsor on this amendment be able to do so.

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

AMENDMENT NO. 2815

(Purpose: To restore funding for grants to combat violence against women)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN), for himself, Mr. HATCH, Mr. HOLLINGS, Mr.

GRAMM, Mrs. BOXER, Mr. KOHL, Mr. KERRY, and Mr. WELLSTONE, proposes an amendment numbered 2815.

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

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

The amendment is as follows:

On page 25, line 19, strike ''$100,900,000'' and insert ''$175,400,000''.

On page 25, line 22, strike ''$4,250,000'' and insert ''$6,000,000''.

On page 26, line 1, strike ''$61,000,000'' and insert ''$130,000,000''.

On page 26, line 7, strike ''$6,000,000'' and insert ''$7,000,000''.

On page 26, line 10, insert after ''Act;'' the following: ''$1,000,000 for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the Violent Crime Control and Law Enforcement Act of 1994; $500,000 for Federal victim's counselors, as authorized by section 40114 of that Act; $50,000 for grants for televised testimony, as authorized by section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968; $200,000 for the study of State databases on the incidence of sexual and domestic violence, as authorized by section 40292 of the Violent Crime Control and Law Enforcement Act of 1994; $1,500,000 for national stalker and domestic violence reduction, as authorized by section 40603 of that Act;''

Mr. BIDEN. Mr. President, I offer this amendment to restore $75 million in funding for the Justice Department programs contained in the Violence Against Women Act, and I am pleased that many of my colleagues, including Senator GRAMM of Texas and Senator HATCH of Utah, are cosponsors of this amendment.

Of all the legislation I have ever worked on here in the Senate, this one—the Violence Against Women Act—has been my first priority and my proudest accomplishment. When it passed the Senate with overwhelming bipartisan support, I thought we were well on our way to making a significant commitment to the women of America. I though we made more than a paper commitment. But passing the law, without following through and providing the funding is meaningless.

For too long, we have looked the other way when it comes to this kind of violence. For too long, we have turned our back on the women injured by men who say they love them. For too long, we have considered this kind of violence a private misfortune rather than a public injustice.

Last year, we took a historic step in the right direction when we passed the Violence Against Women Act. We made a commitment to the women and children of this country. We said: We will no longer look the other way—the violence your suffer will no longer be yours alone. Help is on the way.

And just in case my colleagues have forgotten, let me once again remind them of the dimensions of this problem:

The No. 1 threat to the health of America's women is a violent attack at the hands of a man. It is not breast cancer, it's not heart attacks, it's not strikes. Its violence against women by men.

These attacks have many names. They are called rape, assault, felonies. And the attackers have many faces. They are friends, relatives, spouses, and strangers.

The statistics are terrifying:

Every 18 seconds, a woman is beaten by her spouse, boyfriend, or other intimate partner.

Every 5 minutes, a woman is raped.

Nearly two out of three female victims of violence are related to, or know, their attackers.

As many as 35 percent of all women who visit emergency rooms are there because of family violence.

This violence also takes a tragic toll on our children:

Three million children each year witness violence in their homes. Studies show that these kids are more likely to drop out of school; abuse alcohol and drugs; attempt suicide; and, sadly, grow up to be abusers themselves.

The violence women suffer reflects as much a failure of our Nation's collective moral conscience as it does the failure of our Nation's laws and regulations.

How else can we explain the results of a study of junior high school students conducted in Rhode Island a few years ago?

In the study, the students were asked: When does a man have the right to have sexual intercourse with a woman without her consent?

It seems like an outrageous question doesn't it? but 80 percent of the students said that a man had the right to use force on his wife, 70 percent said he had the right to use force if the couple was engaged, and 61 percent said force was OK if the couple had already had sexual relations, and 30 percent said force was justified if the man knew that the woman had had sex with other men.

And the appalling answers do not stop.

About 25 percent of the boys said it was OK to force sex on a girl if the boy had spent $10 on her—and, astoundingly, 20 percent of the girls who were interviewed agreed.

If these are the attitudes we have communicated to our youth, it is hardly surprising that we tolerate a level of violence against women unprecedented in our history.

Somehow, we seem to forget that a society suffers what it tolerates.

That's why we cannot retreat from the commitment we made last year with passage of the Violence Against Women Act. The act, let me remind my colleagues, has four basic goals: To make our streets and homes safer for women; to make the criminal justice system more responsive to women; to start changing attitudes—beginning with our kids—about violence against women; and to extend to women the equal protection of our Nation's laws.

The Senate, the House, and the President—we all agreed last year that Federal dollars should be committed to these goals. Specifically, we authorized funding to:

Hire more police and prosecutors specially trained and devoted to combating family violence;

Train police, prosecutors, and judges in the ways of family violence—so they can better understand and respond to the problem;

Implement tougher arrest policies, including mandatory arrest for anyone who violates a protection order—so that the burden of seeking an arrest does not fall on the women who may fear further violence;

Expand and improve victim-service programs and provide specially trained family violence court advocates;

Fund rape crisis centers and open more battered women shelters; and

Fund family violence education courses in our schools.

In the past 12 months, the Violence Against Women Act has already been put into action. In States and communities all across the county, Federal dollars are helping coalitions of police, prosecutors, judges, and victim service organizations work together—to make arrests, win convictions, secure tough sentences, and offer women the information and practical resources they need.

As many of you may already know, the first conviction and sentencing under the act took place recently in West Virginia.

It is a case about Christopher Bailey and his wife, Sonja, and it is enough to take your breath away. Christopher Bailey severely beat Sonja, forced her into the trunk of his car, and drove aimlessly across West Virginia and Kentucky for 6 days.

Sonja suffered massive head injuries and severe kidney and liver dysfunctions. Her face was black and blue, and her eyes were swollen shut. She had burn marks on her neck, wrists, and ankles.

Today, Sonja remains in a coma.

Christopher Bailey was convicted under a new provision in the Violence Against Women Act, and for kidnapping. Early this month he was sentenced to serve the rest of his days in prison.

Obviously, Bailey's conviction won't bring Sonja out of her coma. But it does send a clear message all across our land: violence against women will not be tolerated—it will be punished, and it will be punished severely.

Today, we here in the Senate must send that same message. We must keep the promise we made last year, and restore funding for the Justice Department programs authorized by the Violence Against Women Act.

Last year, the Congress authorized over $176 million for the Violence Against Women Act Justice Department programs. This bill as reported by committee cut more than $76 million from these programs.

The most devastating cut was made to the grant program at the heart of

the act: The program to bring together State and local police, prosecutors, and victims advocates to target family violence and rape.

Last year, we authorized $130 million for that program. This bill only allocates $61 million—so $69 million dollars were cut from the police, prosecution, and victim services grants—that means more than 1 out of every 2 dollars were cut.

This is money for more police and prosecutors to crack down on violence against women; to train police, prosecutors, and judges so they can understand better and respond more effectively to violence against women; and to develop, enlarge and strengthen programs for victims of violence—like rape crisis centers, battered women's shelters, and special victim advocates.

This bill also cuts $1 million earmarked especially for rural areas to combat family violence, and the bill completely eliminated the $1.5 million targeted to combat stalking against women.

In restoring $75 million in funding for the Violence Against Women Act, this amendment does not take any new money out of the taxpayer's pockets. Instead, the money comes out of other places in the bill—where there's much more money appropriated than was requested by the President.

These cuts would have had a devastating impact on the lives of women and children in America. I am pleased that so many of my colleagues are joining me in restoring virtually all of the funding for the Violence Against Women Act.

Let me also point out: the Appropriations Subcommittee on Labor, Health and Human Services, and Education, chaired by my distinguished friend and colleague from Pennsylvania, Senator SPECTER, has recommended full funding for the Violence Against Women Act programs within the jurisdiction of the Department of Health and Human Services for rape education and prevention, domestic violence community demonstration projects, a domestic violence hotline, and battered women shelters.

In fact, recognizing the urgency of this problem, the subcommittee wrote in an additional $2.4 million for battered women shelters—shelters which serve as a refuge for women and their children when they are hurt and most vulnerable—and in greatest need of our compassion and support.

I applaud the subcommittee's efforts to honor the commitment that we made last year to the women and children of America. And I hope that when the HHS appropriations bill comes to the floor, the full Senate will honor that commitment as well.

But right here, right now, we must not retreat on the bill at hand. We cannot—we must not—turn back now. For too long, our society has turned its back on the nightmare that is violence against women.

Obviously, we cannot legislate humanity and kindness. And we cannot outlaw hatred and ignorance.

But we can help make America a safer place for women—and I call on everyone here to help do just that.

I hope all of my colleagues will join me in restoring full funding to the Violence Against Women Act programs. The women and children of America are counting on us.

Mr. President, I ask unanimous consent that Senator HOLLINGS be added as an original cosponsor, and Senator KERRY of Massachusetts, Senator GRAMM of Texas is already the original cosponsor, Senator HATCH, Senator BOXER, Senator WELLSTONE, and others who will come to the floor I am sure who wish to be part of this amendment.

I ask unanimous consent that they be added.

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

Mr. BIDEN. Mr. President, in the interest of time because there are other amendments and a lot more to do on this bill, let me briefly explain this amendment and then yield to the chairman of the subcommittee for any comments that he would like to make, and he surely knows the mechanics of this better than I.

Mr. President, in order to restore every single piece of the Violence Against Women Act funding, there is a requirement that would be required that we would have to have had $76.7 million.

Just to give my colleagues an idea what I mean about that, the violence against women grants; pro-arrest policy; rural domestic violence, court-appointed special counsel, national stalker reduction, training programs, Federal victims counselors, grants for televised testimony, State databases, national baseline study for campus sexual assault, equal justice for women in courts, training grants for State courts, training for Federal and judicial personnel, Federal Judicial Center, and Administrative Office of the Courts, are all recipients of some portion of the violence against women funding.

Unfortunately, all we have available is $75 million, not $76.7 million to make this account totally whole.

So my amendment lays out which portions of all of those functions that I have just read are fully funded and which are not able to be funded with this addition of $75 million.

I want to put this in context. We are going to be funding $175 million out of $76.7 million. This is a $75 million increase. I wish it were a $76.7 million increase, but then again, as my friend, the chairman of the full committee is saying, I am being a little greedy in that regard. I realize every program has to take a little bit of hit.

So what we do in a nutshell is we add $75 million in the accounts that we may call the violence against women grants, pro-arrest policy, the rural domestic violence, court-appointed advocate programs, national stalker legislation, training programs, Federal victims counselors—we are not able to fully fund the grants for televised testimony. That was originally in our legislation—$250 million. It is funded at only $50 million. We are able to fund fully the State database. We are not able to fund the national baseline study on campus sexual assault at this moment. We are not able to fund equal justice for women in State courts, training for Federal judicial personnel, Federal Judicial Center, and Administrative Office of the Courts.

So that is what the additional $75 million goes to make whole.

I would be delighted to yield to the chairman of the committee for any comments, and thank him, by the way, for keeping—as he always does with me and with everyone else I know—a commitment. He told me that if he had the money he would make this account at least mostly whole. He got the money, and he did just that. And I thank him for that.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me thank Senator BIDEN for working with me on this amendment. We had provided in the appropriations bill a tripling of funding for violence against women, which represented our largest increase in expenditure in the bill. Our problem was that, given the overall financial constraint we had, there was no way we could fund the authorized level of the program.

So Senator BIDEN and I were in a position that we both wanted to provide more money. This has been one of the top priorities of the bill. But yet we were still short of the full program that the Senate had authorized.

When the distinguished chairman of the committee allocated additional funds to the subcommittee, as he did in his amendment that was just adopted a moment ago, it allowed us to go ahead and to fully fund this program.

I am, therefore, very happy to join my colleague from Delaware in this amendment. I think given the funds that are now available that this represents a wise expenditure of money.

I join my colleague in supporting this amendment, and urge our colleagues to adopt it.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I would like to thank both of my colleagues, the Senator from Delaware, and the Senator from Texas and, of course, the Senator from Oregon, Chairman HATFIELD.

I also see the Senator from Utah whom I think has been a real leader in this area. I am really pleased that we have come together in a bipartisan way on this issue.

Mr. President, I could take a tremendous amount of time. But I think there are other Senators who want to make some brief comments on this as well. So let me just try to summarize several hours worth of what I would like to say on this issue.

In my State of Minnesota I think a lot of people are lighting a candle in this area. The statistics nationally are really grim. I think the FBI statistics is something like every 15 seconds a woman is battered in our country.

Mr. President, I think that we are taking this seriously now in a way that we have not before as a country, both as a crime and also in terms of the kind of things that we need to do to prevent it.

Mr. President, I think what this Violence Against Women Act funding does—I am so pleased that we were able to go up from $100 million to $175 million, is it provides funds to communities who can make good and positive things happen.

Mr. President, I think this is not bragging to say that Minnesota really is one of the leaders in the Nation—I think I would probably argue leader in the Nation. I think the general view that we have in my State is we are never going to be able to reduce the violence in our communities unless we are able to reduce the violence in our homes. It spills out into the streets. It spills out into the neighborhoods. It spills out into the community.

I think the second view that we have in Minnesota—and I think it is a view around the country—is that, whereas, when I was a kid, if we knew something was wrong in another home, whether it be a woman who was battered or a child—sometimes a man, but unfortunately mainly women and children, not that I think it is good that men are battered—I think it is awful that so many women and children have to pay this price. I think now we have reached the conclusion, as opposed to a point in time when we said it was no one's business, I think we are now seeing it as everybody's business. This is the kind of problem that could be tackled at the community level. It is the kind of problem that could be tackled by the law enforcement community. It is the kind of problem that could be tackled by the clergy. It is the kind of problem that can be tackled by women and others who are down there in the trenches in the battered women's shelters. It is the kind of problem that can be tackled in our schools where children learn alternatives to violence as a way of solving disputes. We really think as a country we can take this problem on.

I think this amendment which has been accepted by both sides is an extremely powerful, an extremely personal, and an extremely important message by the U.S. Senate that we are not going to back down from this national commitment.

I am proud to be a cosponsor. I thank the Senator from Delaware for his very fine remarks.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in support of this amendment. I thank my colleague, friend, and cosponsor, Senator BIDEN, for his leadership in this area.

Mr. President, this really has a dramatic imprint on America. It is already starting to put people in jail that are violating the rights of women in our society. Frankly, it is a tough law. It is a good law. It is one that needs to be fully funded, and I am happy that we have the cooperation and the support of the distinguished chairman of the subcommittee in this matter as well.

As most of my colleagues are aware, I have long opposed programs I believed were mere pork projects. In fact, I led the battle against last year's crime bill because I felt that it had ballooned in terms of unjustified costs. The Violence Against Women Act, however, is an important program that deserves to be fully funded. The act provides for: Rape prevention education; battered women shelters; grants to encourage arrest policies in domestic violence cases; the investigation and prosecution of domestic violence and child abuse in rural areas; treatment and counseling for victims; and for developing community domestic violence and child abuse education programs.

These programs are important. Prosecutors and police officers must become more sensitized to the problem of violence against women. Women who are abused by their spouses must have a place to stay and must have counseling available to repair their shattered lives. Resources need to be channeled to stem the tide of violence directed against women.

Mr. President, no matter what anybody said, violence against women is a problem in America today. According to the Justice Department data, nearly half a million women were forcibly raped last year—a half million, in the greatest society in the world.

Some studies estimate that the total number of rapes including those not reported to the authorities exceed 2 million women a year. That is outrageous and it has to stop.

Indeed, according to a recent report by the Bureau of Justice Statistics, a woman faces four times the chance of being raped today than in 1960. Similarly, domestic violence strikes at the heart of the most important political unit in America, and that is the family. The family should be a safe harbor for those tossed about by the storms of life, not a place of abuse or of degradation. It is a sad fact of life, however, that the reports of domestic violence have been on the rise.

To this end, Senator BIDEN, Senator SPECTER, and I worked last year to see that the Violence Against Women Act was signed into law. According to both the House and Senate Appropriations Committees, however, the Justice Department has only spent $2 million of the total $25 million provided for fiscal year 1995. We have to restore this funding. The act is a small, albeit vital, step toward addressing the problem of family violence and violence against women generally.

So I certainly urge all colleagues to be supportive of this amendment. I am pleased to stand and support this excellent bill, and I compliment my friend and colleague from Delaware for his leadership in this matter, as well as those in the Chamber and others who have contributed to the bill and to the funding of it. And I particularly thank my colleagues on the Appropriations Committee for their willingness to fully fund this bill.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I join my colleagues in saying a few words in support of this amendment. I particularly thank the Senator from Delaware, Senator BIDEN, for negotiating on our behalf on this side of the aisle, his conversations that he has had with all of us, the dialog that he engaged in an effort to try to achieve a sensible strategy to save some of the programs in a bill that to many of us is still flawed.

The Senator from Utah just talked about rape and the problem of violence with respect to rape in particular, but the truth is that family violence, as we have all learned, is the No. 1 cause of all kinds of physical injury to women in this country. And when you translate the effect of family violence into the impact on several million young children, that impact plays out in a way that diminishes the capacity of those children to be able to learn, to be able to go to school, to be able to carry on normal relationships, and that flows into their adolescence and subsequent adulthood in ways that simply diminish the capacity of people to be able to participate as good citizens.

We all deplore the implosion within a large segment of America's population with respect to a fundamental structure—the family. Finally, with the Violence Against Women Act, we gave people hope that a particular kind of behavior was going to be properly singled out and treated. To have even thought of doing away with it was astonishing to me.

We do not need to talk further about that because we are restoring it. I am glad that the Senate has come to its senses with respect to it.

I might mention that the Violence Against Women Act not only speaks to the problem of the physical abuse against a woman. We just had a very long debate about welfare and the family cap. And my good friend from New Mexico, Senator DOMENICI, spoke extraordinarily eloquently in the Chamber about the problem of punishing innocent children and creating further

problems in the cycle but also about the problem of increased incentive to have abortions as a consequence of illegitimate pregnancies.

Mr. President, when you consider violence against women, the truth is—and it has been ignored by prosecutors across America and by State governments across America—a large percentage of those unwanted pregnancies in America are the pregnancies of 13- and 14- and 15- and 16-year-olds by virtue of the actions of 24- and 25- and 26-year-olds. The last time most of us looked, that constituted statutory rape in this country.

A Congressman has just been tried on the basis of actions of an adult with a teenager, and the truth is that here in America a large percentage of preying on the young is taking place. The unwanted pregnancies that we see in this country are in fact criminal actions. So this act in effect allows us to also focus on that totally ignored aspect of illegitimacy.

And the truth is, if there was a stronger capacity within the welfare system to identity those people, we might begin to hold people accountable for their actions, but not do it in a way that creates a huge problem for the totally innocent child born as a consequence of those actions.

So, Mr. President, I congratulate the Senator from Delaware. I think this is a very important outcome. And I thank the Senator from Texas for acknowledging that this act that only recently went into effect is working, it is having a profound impact and it is healthy for this country to allow it to continue to work.

Mr. BRADLEY. Mr. President, I rise in support of the Biden amendment to increase by $75 million the appropriation for enforcement of the Violence Against Women's Act. As an original cosponsor of the amendment, it is vitally important that Congress does not waiver in its commitment to ensure that women in America are free from the devastation of domestic violence.

Domestic violence is a social sickness, and women and children are its most common casualties. Violence against women in the home is a heinous crime being committed behind locked doors and pulled shades in cities and towns across America. By committing this additional funding to the Violence Against Women's Act, Congress will give women the tools to bring this crime out of the shadows.

Mr. President, a policeman recently said, ''The most dangerous place to be is in one's home between Saturday night at 6 p.m. and Sunday at 6 p.m.'' He forgot to add, ''Especially if you're a woman.'' A 10-year study found that in cases where the identity of the killer is known, over one half of all women murdered in America were killed by a current or former male partner or by a male family member. Studies have also shown that violence against women in the home causes more total injuries to women than rape, muggings, and car accidents combined.

In my home State of New Jersey, there were 66,248 domestic violence offenses reported by the police in 1993. Overall, women were the victims in 83 percent of all domestic violence offenses. Mr. President, 41 women lost their lives as a result of domestic violence disputes in my home State in 1993. These are not nameless, faceless statistics, Mr. President, these are women who endured torture and abuse during their marriages and were violently murdered.

Mr. President, I have introduced a bill to create community response teams around the country. Community response teams work in tandem with police to help victims of domestic violence right when a crisis occurs. By working together, community response teams and police can provide victims with the services so essential to them after they have been battered or beaten in their home.

Mr. President, an increasing number of jurisdictions in the State of New Jersey are employing community response teams. For example, in Middlesex County, which includes South River, there are currently five jurisdictions with community response teams. South River, with a population of approximately 15,000, has a community response team employing 7 community volunteers. In Woodbridge, a community response team of approximately 30 volunteers is serving a population of 100,000. These community response teams, serving both large and small communities, are effectively assisting women who are suffering physical and mental abuse.

Mr. President, Violence Against Women's Act funding is available for these successful programs in New Jersey to continue to aid victims of domestic violence. In addition, Violence Against Women's Act funding will assist in the fight against domestic violence by providing needed resources to prosecutors and police officers.

Mr. President, if domestic violence is to be obliterated in our society, we need to provide communities with the resources they need to prevent instances of violence and protect victims from further abuse. By providing additional funding to the Violence Against Women's Act, Congress will strengthen the lines of defense in the battle against domestic violence.

Ms. MIKULSKI. Mr. President, I rise today in support of the Biden amendment, which restores the $75 million shortfall in funding for programs to prevent violence against women.

After years of hearings, reports and statistics we learned that our society and our criminal justice system has been ignoring violence against women, often with tragic consequences for women, their children, and ultimately, for society itself.

We learned that one-fifth of all aggravated assaults in the United States occurred in the home; 3 to 4 million American women a year are victims of family violence; one-third of all American women who are murdered die at the hands of a husband or boyfriend; one third of all women who go to emergency rooms in this country are there because of family violence; an estimated 700,000 American women are raped each year; children in violent homes are 1,500 times more likely to be abused or neglected; over the last 10 years, crimes against women have risen nearly three times as fast as the total crime rate; 98 percent of the victims of rape never see their attacker caught, tried or imprisoned; over half of all rape prosecutions are either dismissed before trial or result in an acquittal; and almost half of all convicted rapists can expect to serve an average of a year or less behind bars.

The solution to the problem is not to treat women as victims—it is empowerment. And that is what the act does. It allows women to take charge of their lives through such things as rape prevention programs or counseling provided at federally funded battered women's shelters.

The Violence Against Women Act is the first comprehensive approach to fighting all forms of violence against women. The law made a substantial commitment of Federal funds over a 6-year period to combat family violence and sexual assault. The commitment we made sends resources and support to those devoted to responding to and preventing violence against women.

I urge every Senator to support this amendment. Let us not go back on our promises made to the women of this country.

Mr. WELLSTONE. Mr. President, I rise in support of Senator BIDEN'S amendment to restore full funding for the Violence Against Women Act.

This amendment would restore $76 million to programs in the Violence Against Women Act—training for police, prosecutors, and victims advocates to target family violence and rape; programs to reduce sexual abuse and exploitation of young people; training for judges and prosecutors on victims of child abuse; training for state court judges on rape, sexual assault, and domestic violence, and programs to address domestic violence in rural areas.

Last year, $240 million was promised by Congress for the Violence Against Women Act [VAWA] programs for fiscal year 1996—$176.7 million for VAWA programs administered by the Department of Justice, and $61.9 million for VAWA programs administered by the Department of Health and Human Services.

All of this is funded out of $4.2 billion provided by the crime trust fund in 1996. Funding in the crime trust fund comes from eliminating 123,000 federal jobs and cutting domestic discretionary spending. Full funding of the Violence Against Women Programs has no effect on the budget deficit and requires no new taxes. Now, I want my

colleagues to clearly understand what this all means. Last year, as a country we decided that addressing crime was a top priority. We decided that savings from streamlining the Federal Government and cutting other domestic programs would go to fight crime.

As a country we made a commitment to breaking the cycle of violence and see that a person's home is the safe place it should be. Last year, as part of the crime bill Congress passed the Violence Against Women Act, we made a bipartisan commitment to address domestic violence. But now, only a year later, we are considering a bill to cut funding for these programs.

I must, at the same time, commend my colleagues on the Appropriation Subcommittee on Labor/HHS for their efforts and wisdom in more than fully funding the Violence Against Women Act Program under their jurisdiction.

But we must remember all the programs in the Violence Against Women Act are a package. Senator BIDEN and others worked for 5 years on this piece of legislation. All the pieces of it fit together. They all must be in place for it to work effectively. For example, we can encourage arrests by police officers but if they are not properly trained to understand the dynamics of domestic violence, an arrest could make the situation more explosive. Likewise, if more batterers are being arrested but judges are not trained to understand or take domestic violence seriously batterers are likely to go free or charged with lesser offenses.

Violence Against Women Act programs must be fully funded. Anything less would result in a betrayal of the bipartisan promise Congress made. Domestic violence should be a priority for national crime-fighting efforts. But without adequate funding we cannot address this serious problem.

We know all too well that it is the violence in the home that seeps out into our streets. If we do not stop the violence in the home we will never stop it in the streets. We knew this when we passed the crime bill last year and it is still true today.

Domestic violence is one of the most serious issues we face. It knows no boarders. Neither race, gender, geographic or economic status shields someone from domestic violence. As a matter of fact, next week my wife Sheila and I are sponsoring the display of 50 photographs by Donna Ferrato, an award winning photojournalist. These photographs provide powerful and graphic evidence of this crisis, and I invite my colleagues to view them, I am only disappointed that these photos could not be displayed while we debate this issue.

Mr. President, nationwide, every 15 seconds a woman is beaten by a husband or boyfriend, over 4,000 women are killed every year by their abuser, and every 6 minutes a woman is forcibly raped.

We know that the majority, 70 percent, of men who batter women also batter their children. Or children may be injured during an incident of parental battery. We also know that 25–45 percent of all women who are battered are battered during pregnancy. Battering during pregnancy is the most common cause of birth defects.

Children are also scarred emotionally by witnessing the abuse of their mothers. They are traumatized by fear for their mother and their own helplessness in protecting her. They may blame themselves for not preventing the violence or even for causing it. This can manifest itself in aggression, sleeping disorders, or withdrawal.

When a woman and her children are struggling to leave violent homes, they face many barriers. Many people ask why she does not leave? Often the response to this question is merely another question: why does he beat her? I feel that particular response ignores the realities of women's lives. One reason women do not leave is fear. If she leaves, he will find her and kill her. Batterers often threaten to harm or take the children away to force her to stay. Leaving him never guarantees safety for a woman or her children. In almost three-quarters of reported spouse assaults, the victim was divorced or separated at the time of the attack.

Women are also dependent on the abusers for financial reasons. If they decide to leave, often they can not afford housing or food for themselves and children.

Abusers also play on emotions to trap victims into staying. He will threaten to kill himself. This plays on many victims desires not for the marriage to end, just the violence.

Domestic violence is a community issue. It is no longer an issue for women; it is an issue for all women, men, and children. Communities need to work together. It was the Violence Against Women Act that was intended not only to strengthen the laws concerning general violence, it was to provide some of the necessary resources to communities to address the violence in their own communities.

It was intended to help law enforcement officers to make responsible arrests and understand the dynamics of domestic violence—to learn not ask her what she did to make him mad. It was to help train judges to treat domestic violence as a crime and hold the abusers accountable for the violence.

How ironic it is that last year around this time we were celebrating the passage of the Violence Against Women Act. We were celebrating because, finally, the Federal Government had taken a very bold step to make the protection of women in their homes a top priority for this Nation. And now, 2 days before the beginning of Domestic Violence Awareness Month we are considering a bill that cuts the funding for these important programs.

As I travel and meet more and more women and children who are victims of domestic violence, I become even more outraged that a woman's home can be the most dangerous, violent, or deadly place she can be; if she is a mother, the same is true for her children. It was with the passage of the Violence Against Women Act that Congress said loudly and clearly it is time to stop the cycle of violence, it is time to make homes safe again, and it is time to help communities across the country deal with this crisis. Without full funding, Congress will turn its back on women and their families. And it will turn its back on communities that are struggling to deal with increasing crime.

I urge my colleagues to support the Biden amendment.

Ms. SNOWE. Mr. President, I would first like to thank my colleague from Delaware, Senator BIDEN, for crafting and offering this amendment as well as my colleague from Utah, Senator HATCH, for his leadership.

Mr. President, I want to speak to you today not just as a U.S. Senator, or a citizen of Maine, or even as a Republican. I want to speak to you as a woman, and I want to speak to you on behalf of the 135 million women of America about an issue that has more likely than not touched each of our lives at some point in time.

Let me just say that it is not an uncommon occurrence in Congress for either Chamber to authorize funding for a particular program but not to fully fund that program at the authorized levels. It happens often, and, in some circumstances, there may be justifiable reasons to take such a course of action.

By not fully funding some wasteful programs, we might even save the taxpayers of America some of their hard earned tax dollars and use them towards programs that work and that make a difference in the daily lives of America's families.

But I think it would come as a great surprise to many Americans—especially to those 135 million women—to know that a program such as the Violence Against Women Act, which was passed as part of last year's crime bill in Congress, has not yet been fully funded.

Now, I think it is safe to say that the Violence Against Women Act is one program that deserves its full funding. It is not wasteful. It is not unnecessary. It is not—and should not be—a target of waste watchers. And it is not to be overlooked. But it has been.

Fortunately, today, we have an opportunity to correct this oversight.

For those who may be wary of its funding—or who may doubt its necessity in this era of penny-pinching and budget scrutiny—let me just take a moment to paint a picture of life in America's streets and homes for some women.

It is a picture where more than 2.5 million women annually are victims of violent crimes.

It is a picture where an estimated 5,000 women are beaten to death each year.

It is a picture where in the 1990's, one out of every eight women have been the victim of a forcible rape.

It is a picture where every 15 seconds in America, a woman is battered—and where every 6 minutes, a woman is raped.

It is a picture where, between 1989 and 1993, the number of known rape offenses increased by 11 percent—despite more awareness of violence against women.

It is a picture where a woman in our country is more likely to be assaulted, injured, raped, or killed by a male partner than by any other assailant.

It is a picture where at least a third of all female emergency room patients are battered women, while a third of all homeless women and children are without shelter because they are fleeing domestic violence.

And the litany of tragedy and violence goes on to paint an even fuller, starker, and more disheartening picture.

This is an issue about a woman's safety, a woman's rights, and our ability as a nation to protect those inalienable rights as guaranteed under the Constitution.

But how can we defend a woman's right to ''life, liberty, and the pursuit of happiness'' when we cannot protect her from ''rape, battery, and the onslaught of violence.''

Mr. President, the Violence Against Women Act is a critical tool in our fight to combat domestic violence across America. It is an essential bill for our mothers, our daughters, our sisters, our relatives, our friends, and our coworkers.

It contains provisions that enhance penalties for sex offenders; provides grants to States to improve law enforcement, prosecution, and victims services in cases of violent crimes against women; authorizes over $200 million for rape prevention and education programs; provides funds for the creation of a national domestic violence hotline as well as battered women's shelters; and does much more.

These provisions will help become a shield for women and deliver justice to victims of hateful and brutal assaults. Already, within the past year, two individuals have been imprisoned for life terms under this act for beating their spouses or girlfriends.

While I will be the first to say that violence knows no gender barriers and is clearly a threat to both men and women alike, no one can turn a blind eye to the fact that women are especially to be found in the scope of danger and crime.

Consider that women are six times—6 times—more likely than men to experience violence committed by an intimate. Consider that women and girls are victimized by relatives at four times the rate of males. And consider that an astounding 95 percent of violence victims are, in fact, women.

But the men of America have a stake in this legislation as well, which is why the fight here on the floor has been joined by such men as Senators BIDEN and HATCH. Namely, the fathers, sons, and brothers of the women of America who face the threat of violence each and every day. They deserve to know that the women who mean the most to them and their lives are safe on the streets of our cities.

It is for these reasons that I and 29 of my Senate colleagues requested that we fully fund the Violence Against Women Act in an August 9 letter to the Senate Appropriations Committee.

The Violence Against Women Act should be fully funded as it is supposed to be fully paid for out of the crime trust fund that Congress created last year. But the bill before us does not provide for it. Rather, the moneys within the crime trust fund have been what they call ''re-prioritized,'' which in English means that the Violence Against Women Act has been short-changed to the tune of about $75 million.

In fiscal year 1995, total funding for this program was $26 million. The House Appropriations Committee appropriated $125 million for the program for fiscal year 1996, and the Senate Appropriations Subcommittee funded $100 million—a threefold increase over current funding, but still far short—woefully short—of what American women need and deserve to combat violence and domestic abuse.

Today, we are proposing a remedy to meet this crisis of funding head-on.

The amendment offered by the Senator from Delaware and the Senator from Texas provides the additional $75 million needed to fully fund the Violence Against Women Act.

Mr. President, let me conclude by saying that—as a former Cochair of the Congressional Caucus for Women's Issues—I understand and know first-hand the importance of making women's health and women's safety a priority for Congress, because we must speak out for the 135 million women and girls of America.

We cannot let them down. We can no longer treat the Violence Against Women Act as a political football and simply fumble away women's needs and concerns.

I urge my colleagues to support the Biden-Gramm amendment.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I was taught by a fellow from South Carolina when I first got here 23 years ago that when you won, sit down. I mean, we won in the sense that everyone wins here. Women of America win.

I would like to ask unanimous consent—I will be very brief—that the following Senators be also added as original cosponsors: Senator INOUYE, Senator AKAKA, Senator KOHL, Senator LEAHY, Senator HARKIN, and Senator SANTORUM, the Presiding Officer, from Pennsylvania.

Let me just say in closing, and then I will ask for the yeas and nays at that point, that there are certain facts people should keep in mind. I think of all the facts that affect women in this Nation as a consequence of violence, the thing that surprises me, that surprises most Americans most often are the following:

That family violence is the No. 1 cause of injury to adult women in America—No. 1, No. 1—not breast cancer, not heart attacks, not strokes. The No. 1 cause of injury to women in America is family violence, in almost every instance the fist of a man, supposedly someone who loves them.

The second point that people should keep in mind and why this is so important: Every 18 seconds a woman is beaten by her spouse, boyfriend, or other intimate partner in the United States, making the home the most dangerous place in the world to live for being a women in a democracy. As many as 35 percent of all the women who will visit an emergency room in any of our cities tonight, one-third of all the women who will walk into an emergency room in Washington, DC; Wilmington, DE; Boston, MA; Butte, MT, one-third of them tonight who walk in will be there as a consequence of the fist of a man. They will be there because a man has injured them.

Three million children a year witness family violence in their homes. And as a consequence, the statistics are overwhelming. I will not bore you, but those children significantly have a greater likelihood of dropping out of school, becoming alcohol and drug abusers. They are the highest percentage of suicide attempts, and, most frightening of all, they become abusers—abusers. They become the abusers.

So, for these and 1,000 other reasons we could all speak to, I think this is a very, very important error we are correcting in this bill.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I think we are going to decide to stack votes. So what I would like to do, unless someone else wants to speak on this amendment, is to suggest the absence of a quorum until we can decide if we are going to do that, in which case we would simply make this the first vote when we do the stacked votes.

Mr. BIDEN. Mr. President, before the Senator suggests the absence of a quorum, I want to make it clear it is perfectly fine with me whatever way the Senator wishes to proceed.

Mr. HATCH. Will the Senator yield?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask if it would be permissible then to proceed

simply to speak on some issues with respect to the crime bill instead of putting in a quorum call.

I know, Mr. President, that discussions are going on now. We are negotiating, and Senator BIDEN is representing our side, with respect to the issue of cops, police. I would like to talk for a few minutes, if I may, Mr. President, about this issue of cops. It is one that I have been deeply involved in and concerned about for all the time I have been in the Senate. And in the last few years we finally have been able to elicit a response to try to meet one of the great needs of the country.

There is not one of us who has not been touched at one time or another in one way or another and sometimes very personally. I remember listening to the Senator from North Dakota in his own personal tale of what happened to his wife right here over on Capitol Hill. There are dozens of other examples. We have had a Senator randomly shot in the past here in Washington. We have had countless citizens in this city right around us shot. It is a war zone. It is the murder capital of the country. And it ought to have set a better example for what response should have been from the U.S. Congress.

Such a random act of violence occurred just a couple days ago in Massachusetts to a young prosecutor, Assistant Attorney General Paul McLaughlin, the son of a friend of mine, former Lieutenant Governor and U.S. attorney. But this young assistant attorney general, himself involved in working to fight the problem of gang warfare and gang criminal activity, was simply gunned down going to his car coming home in the evening after his normal 12-hour day in a prosecutor's office. A hooded young person walked up and blew him away.

I talked this afternoon with his father. And there is no way to express the sorrow that he and his family feel and no way for us to express our sorrow on their behalf.

But I can say, Mr. President, with clarity that what the State and local entities have been doing over the course of the past years and the Federal response to that is truly unconscionable because we have literally been disarming in the face of an increasing threat on an annual basis, a threat that is measurable. And all of us have come to understand, I hope finally, that nothing is more important in terms of really fighting crime than to put police officers on the streets of the country.

Mr. President, I have quoted the statistics before, but somehow they do not always seem to break through. But 15 years ago in this country we had 3.5 police officers per violent crime. Today we have, depending on the statistics, a range of 3.5 to 4.6 violent crimes per police officer. You can go into any of the major criminal activity communities in this country and you will find they are operating with less police today with a greater threat than they were 10 or 15 years ago with a lesser threat.

Ask anyone in those communities about the relationship between the community and police. By and large the police come in, they drive through in a cruiser, they are gone. People do not know them. It is a sign of transient authority, not the sign of a present authority that makes an impact on people's lives. The word ''cop'' came from the British concept of ''constable on patrol.'' And it meant on patrol on foot, walking within a community. We used to do that in America. That was the nature of policing originally. The police officer knew the community, the people knew the police officer. There was a relationship with the police officer. The police officer was a role model. So, indeed, criminal activity rarely took place right under the nose of a police officer on patrol.

Now, in recent days, we have sent a message to people in this country that most crimes are very difficult to trace, very difficult to make arrests. In fact, one of the most startling statistics that I have come across is the fact that out of the 200,000 murders that occurred in this country in the last decade, fully 100,000 of them were murders that occurred by total strangers. Americans are being killed, not, as the FBI once told us, in these family disputes or lovers' quarrels, but they are being murdered randomly by people they have never seen and never met. And what is more frightening is fully two-fifths of those murders are committed by people who will never walk through the threshold of a police station or a courthouse.

Fully two-fifths of the murderers in America will never even come to justice. And 100,000 of our citizens in the last decade were gunned down by utter strangers. So when people say, well, violent crime is going down in America because there were 200 murders in your city last year and this year there were only 190, how are you supposed to feel safer? What greater safety is there in knowing that instead of 200 murders, 190 of your citizens were blown away?

Mr. President, 100,000 police officers is an inadequate response. I say to my colleagues today that 100,000 police officers is an inadequate response. And what is really bizarre in this new equation we are debating in Washington, the two greatest public crises in America today—education and public safety—are already today 100 percent and 95 percent controlled at the local level.

So here we are with an implosion of capacity to resolve these problems at the local level, and we are busy saying we are going to send back to the local level more responsibility with less resources. If that does not underscore the need for more than the 100,000 police officers, I do not know what does. Here we are, for the first time in American history the Federal Government is paying for local police officers.

Now, I hear some people around the country say, ''What a fakery. You are only going to provide 20,000 police officers because you are not paying for the whole thing.'' Since when was it the responsibility of the Federal Government to pay for the whole thing? Every time we have had a Federal grant program, it would be with a matching grant where we have required 75 percent, 90 percent, or some percentage. Sometime we continued the 90 percent-10 percent relationship for 10 years, 15 years.

In this particular case, we have decided that this is a sufficient national crisis that we want to ask the local communities and the States to accept what is already their responsibility—to put police officers on the street. We did not say we want to put floodlights on the jail, we want to put computers in the station, we want new cruisers on the road. We want to put police officers on the streets of this country because that is what we need to begin to regain and take back control over our communities and our streets.

Mr. President, in recent weeks and months, I have toured a lot of Massachusetts and gone into the communities that, because of our effort, have community policing. I can tell you about Northhampton, MA. I can tell you about Gardner, Saugus, Lynn, about a host of areas, such as Boston and Lowell, where they now have community policing, and where they have been able to put it into effect and literally reclaim the community.

I was in a housing project where you now have community police officers on bicycles who ride around through the entire community, who walk around and play with the kids, who started basketball with the kids. The kids run up to them when they come into the area, instead of running away from them, which is what they used to do. These officers have helped literally to give that community hope.

In Lowell, on Bridge Street in Somerville, as recently as a couple of years ago, druggies and prostitutes had taken over the street. Citizens were afraid to come out of their homes in the street because of the vermin that were in the street. I talked to storeowners who said that as a result of those druggies and prostitutes, their earnings have gone down and people would not come into the store anymore. Lo and behold, with a grant from the Federal Government, we opened a small storefront and police officers went in; they are there all the time. The druggies are gone, the prostitutes are gone, the community has been reclaimed, and it is coming back to life.

Mr. President, in addition to that, the police officers have been able to intervene before crimes are committed. They have been able to get to know people, to know who the troublemaker is, who identify who belongs in the community, to be able to make determinations about who they need to watch more closely, who needs help. By virtue of their intercessions, they have literally directed people into various human service treatment facilities or

functions where those people left to their own devices might well have pulled out a knife, a gun, or been one of the people in the statistics that the Senator from Delaware talked about earlier.

So, Mr. President, it works. It is working in America. Countless people have said, ''You are not going to put more than 5,000 police on the street within a year. You are not going to put 15,000; you are never going to get to 20,000.'' Well, more than 25,000 new police officers, additional police officers, are already on the streets. It is because of the effort of this legislation.

So, Mr. President, it is my profound hope that in the next hour, or moments ahead, we will succeed in working out an agreement with the Senator from Texas to be able to put back into this bill the original concept of the community policing.

Block grants work in some cases. I am not against block grants. I have voted for them. But in this particular case, we have tried to target a particular national emergency and need, and we have tried to do it in a way that is administratively inexpensive. In fact, it is less expensive to implement the direct justice grant program of the crime bill with a cost of about 0.8 of a percent administratively than to administer the 2.5- to 3-percent administrative costs that will go with a block grant.

Moreover, under the block grant, there is absolutely no guarantee whatsoever that police officers will get to the street rather than the floodlights to the jails or the new cruisers to the station, or the new computer. And that is not to say those things are not important. It is not to say that people do not have a right to ask for those things and that they do not need them. But when 95 percent of the crime is a local jurisdiction, and the Federal Government is singling out a particular need and the particular emergency, we have a right to expect that that emergency is going to be met. And if one community does not need those police, Mr. President, I guarantee you there are 10 other communities in America that will gladly use the money to put police on the streets and make their citizens safer.

So, again, it is my hope that we will succeed in doing what we have already done, what we voted for in an overwhelmingly bipartisan fashion. I hope that will not be undone in this legislation.

Mr. GRAMM. Mr. President, unless someone suggests otherwise or to the contrary, I believe that the debate on the pending amendment No. 2815 is completed. A rollcall vote has been asked for by Senator BIDEN.

So I ask unanimous consent that the vote occur on amendment No. 2815 at 9 p.m. this evening, and that that amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized to offer his amendment.

Mr. DOMENICI. I yield to the Senator from Arizona who has an inquiry to make.

Mr. MCCAIN. Mr. President, I ask unanimous consent that I be recognized for 10 minutes to propose an amendment, at which time the amendment be set aside for the purposes of the Senator from New Mexico to propose an amendment, and I ask that at least 20 minutes be reserved after the disposition of the amendment of the Senator from New Mexico that 20 minutes be allocated to the Senator from Colorado [Mr. BROWN], and 10 minutes for the Senator from North Dakota [Mr. DORGAN].

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2816

(Purpose: To Ensure competitive Bidding for DBS Spectrum)

Mr. MCCAIN. I send an amendment to the desk and ask for its immediate consideration.

I want to thank my friend from New Mexico for allowing me to propose this amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] for himself and Mr. DORGAN, proposes an amendment numbered 2816.

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

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

The amendment is as follows:

At the end of the Pending Committee Amendment, insert the following new section:

SEC. . COMPETITIVE BIDDING FOR ASSIGNMENT OF DBS LICENSES.

No funds provided in this or any other Act shall be expended to take any action regarding the applications that bear Federal Communications Commission File Numbers DBS–94–11EXT, DBS–94–15ACP, and DBS–94–16MP; Provided further, that funds shall be made available for any action taken by the Federal Communications Commission to use the competitive bidding process prescribed in Section 309(j) of the Communications Act of 1934 (47 U.S.C. §309(j)) regarding the disposition of the 27 channels at 110° W.L. orbital location.

Mr. MCCAIN. Mr. President, I ask unanimous consent to be recognized for 10 minutes.

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

Mr. MCCAIN. Mr. President, this amendment, sponsored by Senator DORGAN and myself, would mandate that the FCC auction the one remaining block of DBS spectrum which it holds.

Currently, the FCC is considering how to dispose of the 27 channels at 110° west longitude orbital location. If this spectrum is auctioned, industry experts state that it will sell for between $300 to $700 million. The alternative that is being considered by the FCC would call for the American people to receive much less valuable spectrum and $5 million dollars. Clearly, it is in the best interest of the American people that this spectrum be sold at public auction.

Mr. President, I want to state at the outset I have no interest in any of the companies involved in this issue. None of them to my knowledge is represented in my State. I do know that the company that seeks to acquire this for $5 million is the largest cable company in America.

Mr. President, the spectrum is a finite public resource. It is owned by the American people. And it may prove to be the single most valuable resource held by the public. In recognition of that fact, in 1993, the Congress mandate the first auctions of the spectrum. The still-in-process wireless telecommunications auction has generated a staggering $8 billion dollars and the auctions are only half completed.

This amendment recognizes the value of the spectrum and our duty as people's trustees to handle the spectrum in a manner that most benefits all the American people.

Mr. President, this amendment ensures that the American people benefit from the sale of this spectrum.

The amendment does not choose winners or losers. It does not allow ACC, the corporation that sat on this spectrum for 10 years and did nothing to make a profit.

The amendment does not change the rules in the middle of the game. ACC never owned this spectrum, it received a license under certain terms—terms it never lived up to. The FCC therefore correctly withdrew ACC's license and permission for it to construct a DBS system.

Most importantly for consumers, this amendment will not prevent new service from being offered to the general public, including service to those who live in Alaska and Hawaii. Those living in rural areas are also not adversely effected in any way by this amendment and the I want to note that the National Rural Electric Cooperative Association strongly supports this amendment.

Mr. President, let me lay out the facts surrounding this specific block of spectrum.

In 1984, the FCC divided a segment of the spectrum to be used for the broadcast of direct broadcast satellite [DBS] services. Under the terms of the agreement, spectrum would be allocated to the companies at no charge and in return, the companies would proceed diligently toward the construction of a DBS system.

Of all the spectrum allocated, only 3 blocks of spectrum—located at 101°, 110°, and 119°—cover the entire continental United States. These blocks are known as full-conus blocks and our considered by industry experts to have the highest dollar value.

DirecTV and Echostar were given two of the coast-to-coast U.S. blocks of spectrum.

Advanced Communications Corporation [ACC] was given the third full conus block, which consisted of 16 channels, and was granted approval to begin construction of a DBS satellite service at 110° west longitude. ACC paid nothing for the sole use of this spectrum.

In November 1991, the FCC altered its spectrum allocation scheme and gave ACC at total of 27 channels at 110° W.L., making the block even more valuable.

DirecTV is currently up and running and available to the consumer. Echostar is expected to be operational earlier next year.

During this time, ACC was repeatedly warned by the FCC that it was not acting in compliance with the due diligence standard.

In the summer of 1994, due to congressional mandate, the FCC began the process of auctioning spectrum. The PCS spectrum auction, which is now about half complete, has generated approximately $8 billion for the Treasury and the American people.

On September 16, 1995, ACC entered into an agreement with TCI to sell its spectrum to TCI for $45 million. Such a sale would have meant that ACC would actually have profited from warehousing spectrum for 10 years.

Only 3 months later, in December 1994, ACC applies for a second extension of its construction permit.

The International Bureau of the FCC determined that ACC had not proceeded with due diligence and issued an order on April 26, 1995 that concludes ''Advanced [Communications Corporation] must now return the public resources it holds to the public so that these resources can be put to use by others.'' This decision was based on the fact that up until 3 months before ACC applied for the extension it had done nothing by warehouse the spectrum.

The bureau felt compelled to use a new, tougher definition of due diligence due to the congressional mandate regarding spectrum auctions.

After the International Bureau decision, the full Commission began consideration of a plan to allow TCI to give up some of its allocated DBS spectrum and in return receive the ACC spectrum at a cost of $5 million. This $5 million is to pay for costs incurred by ACC. The spectrum being given up by TCI is valued at a substantially lesser value than the ACC spectrum. TCI would give up 11 channels at 119° and spectrum that allows DBS service to be provided to Latin America, the Pacific rim and China. No industry experts believe at this time that those markets will be nearly as lucrative as the U.S. market. It could be decades if not longer before the spectrum TCI offered up would be worth the value of the full conus U.S. spectrum.

Mr. President, the FCC is at a standstill regarding this issue. It is looking to the Congress for guidance. And I believe it is appropriate for us to let the FCC know that the Senate believes that the spectrum should be disposed in a manner that brings about the greatest amount of benefit to the American people. Adoption of this amendment would ensure such an outcome.

Mr. President, let me clarify, this is not about helping one company or hurting another. It is not about determining winners or losers. It is about protecting the American people's interests. And faced with the staggering debt we have left for our children, we must act in a manner that ensures this spectrum is sold for the highest amount possible.

Further, if this spectrum is auctioned, any company, TCI, Hughes, a telephone company, anyone, can bid for the spectrum. The auction alone will determine who is the winner and loser. Not only is it the right thing to do, but it is the fairest thing.

There will be some issues raised I would like to address quickly.

First and foremost, I have nothing against TCI and have every reason to believe that it operates in an exemplary fashion. I said, this amendment is not about TCI or any other company, it is about protecting the people's interests.

TCI and its subsidiary Primestar have stated that they have spent considerable money on procuring two satellites and for a signal compression facility.

First, TCI chose to purchase these two Space system/Loral DBS satellites in 1990 for use by TEMPO, a cable consortium, for use at TCI's high-power DBS system located at 119° west longitude.

In 1993, TEMPO asked the FCC to modify its DBS system and disclosed that it had granted Primestar an option to acquire the same satellites to enable Primestar to operate with its own DTH system in the fixed service satellite high-power density arc. This is different from where most DBS satellites are located.

At this point the same two satellites had been proposed to be used in two different locations.

Now Primestar distributors are circulating a memo that states that if the ACC deal does not go through, that TCI has other options for satellite deployment.

Mr. President, we must put aside corporate interests and think about what action will best serve the American people. In this case, I think there can be no doubt that the public will benefit most from auctioning this spectrum.

Mr. President, the Citizens Against Government Waste, Consumer Federation of America, the National Taxpayers Union, and the National Rural Telecommunications Cooperative have all sent letters in support of this amendment.

I ask unanimous consent that the letters be printed in the RECORD.

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

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, September 20, 1995.

DEAR SENATOR, The Council for Citizens Against Government Waste (CCAGW) and our 600,000 members support H.R. 2076, the Commerce, Justice, State, and the Judiciary Appropriations for FY 1996. CCAGW commends Subcommittee Chairman Phil Gramm and Appropriations Chairman Mark Hatfield for sending to the floor a bill which spends $4.6 billion less than the budget request and $1 billion less than the House version of H.R. 2076.

The $26.5 billion spending bill prioritizes the budgets for each agency under its jurisdiction. For example, the Justice Department receives $15 billion for FY 1996, almost $3 billion more than in FY 1995, to fight our nation's crime problem. But with a nearly $5 trillion national debt, there is always more to cut from spending bills.

CCAGW supports the following amendments:

The McCain amendment to mandate the Federal Communications Commission to auction the one remaining block of Direct Broadcast System spectrum. If this spectrum is auctioned, communication industry experts believe it will sell for between $300 to $700 million. It is in the best interest of the American people that the spectrum be sold at public auction.

The Grams amendment to eliminate the East-West Center and the North/South Center, saving taxpayers $11 million next year.

CCAGW opposes the following amendments:

Any attempt to restore or increase funds to the Legal Services Corporation.

The Inouye amendment to restore funds to the Federal Maritime Administration.

The Bumpers amendment to restore funds for the Small Business Administration.

The Bumpers amendment to restore funds to the Death Penalty Resource Centers.

CCAGW urges you to support these amendments and H.R. 2076. It prioritizes cuts while ensuring that state and local law enforcement agencies are properly funded. CCAGW will consider these votes for inclusion in our 1995 Congressional Ratings.

Sincerely,

THOMAS A. SCHATZ,
President.
JOE WINKELMANN,
Chief Lobbyist.

CONSUMER FEDERATION OF AMERICA,
MEDIA ACCESS PROJECT, CENTER FOR MEDIA EDUCATION,
September 21, 1995.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN, we are writing to urge you to oppose an amendment that may be offered to permit the FCC to transfer the Direct Broadcast Satellite (DBS) license currently held by Advanced Communications to the largest cable television company in the world, TCI instead of auctioning it off to the highest bidder. At the present time, we are unsure who will offer this amendment. This amendment would strike a serious blow to the development of competition to the cable monopoly and shortchange the American public by giving away a prime piece of scarce radio spectrum for a fraction of its value.

The cable industry has been claiming for years that DBS presents a serious competitive threat. While cable competition has not yet arrived, DBS is a strong potential competitor to cable. If given the license to use

this spectrum. TCI would turn around and lease it to Primestar Partners, a consortium of the nation's largest cable monopolists including TCI. Giving away what is perhaps the single best part of the high powered DBS spectrum to the largest cable monopoly is an entirely wrong-headed policy. It is both anti-competitive and anti-consumer.

This proposed amendment would allow TCI and its cable brethren to essentially jump ahead in line. There are a number of non-cable parties who are interested in providing DBS service to compete with cable that would be foreclosed from using this prime slot because of this ''sweetheart'' proposal.

In direct contrast, Sens. McCain and Dorgan have circulated an amendment which would auction this valuable spectrum to the highest bidder. This could raised hundreds of millions of dollars for the national treasury and help insure greater competition for cable in the process. It is this competition which will protect consumers.

Don't slam the door to cable competition and don't reach into consumers' pocket to enrich a group of the biggest monopolists in America. We urge you to defeat the amendment to transfer Advanced Communications's DBS license to TCI.

Sincerely,

BRADLEY STILLMAN,
Consumer Federation of America.
GIGI SOHN,
Media Access Project.
JEFFREY CHESTER,
Center for media Education.

NATIONAL TAXPAYERS UNION,
Washington, DC, September 21, 1995.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: The 300,000-member National Taxpayers Union (NTU) supports your amendment to require competitive bidding for awarding the last block of Direct Broadcast Satellite (DBS) spectrum held by the Federal Communications Commission.

National Taxpayers Union has long supported privatization of many public assets. The onset of the Information Age has created an extremely lucrative market for advanced communications, in turn dramatically increasing the potential value of the spectrum remaining under government control.

Given the economic potential of the communications sector, Congress should rely on competitive bidding and other market mechanisms to allocate federally owned spectrum. By providing a competitive auction for DBS spectrum, your amendment will ensure a fair market price for this property, not an arbitrary settlement negotiated by bureaucrats and special interests.

Previous spectrum auctions have benefited taxpayers and have allowed dynamic new businesses to develop their cutting-edge technologies. Charges and counter charges from interested corporations aside, a competitive bidding process is the best solution to establishing ownership at a fair price for this DBS spectrum.

Enactment of your amendment would allow the market to decide the price for this resource. Many members of the 104th Congress have resolved to end business as usual in Washington, and allow market forces to have a greater impact on government policy. They have the perfect opportunity to demonstrate their resolve by supporting your amendment to auction DBS spectrum.

Sincerely,

DAVID KEATING,
Executive Vice President.

THE NATIONAL RURAL TELECOMMUNICATIONS COOPERATIVE,
Herndon, VA, September 14, 1995.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I am writing to let you know that the National Rural Telecommunications Cooperative (NRTC) and its rural electric and rural telephone system members nationally are alarmed about a pending action by the Federal Communications Commission (FCC) which would allow the nation's largest cable operators to undermine satellite communications as a true competitor to cable.

Today, NRTC and its rural utility system members are actively providing digital satellite service to more than 200,000 rural consumers living outside of and within cable service areas. Our ability to do so comes through a major investment in Hughes Electronic's DIRECTV which gave us the right to bring digital satellite services to rural Americans.

Today, our rural utility systems provide more than 150 channels of digitally transmitted satellite programming service to consumers who look to them for new services and products. Today, we lease, rent and sell Digital Satellite Systems and we are providing local service and support to a rural subscriber base that grows by more than 1000 new customers a day. And we are doing so in competition currently with PrimeStar and are aware that next year we will have an additional competitor—DBS licensee, EchoStar.

We are very concerned that the FCC will give the PrimeStar partnership, led by majority owner TCI/Tempo, a DBS license that had been ''warehoused'' by Advanced Communications Corporation (ACC) for 10 years. As we understand, not only will the FCC give the license away, it appears it will do so without opening this unused spectrum to a competitive bidding process. An FCC giveaway of DBS frequencies which are conservatively valued at more than $300 million, will seriously hamper competition inside and outside cabled areas. Further, it will do nothing to decrease the nation's budget deficit while rewarding a company that sat on its DBS license and did nothing to provide service to consumers.

NRTC is in full support of your proposed amendment to H.R. 2076, the Commerce, Justice, State and Judiciary Appropriations bill. It is the proper response to heavy-handed efforts by an entrenched industry interested in controlling competition and free-market access to telecommunications services. NRTC has previously endorsed auctioning all the DBS spectrum involved in this FCC proceeding in a letter to the FCC.

Thank you for your support.

Sincerely,

BOB PHILLIPS,
Chief Executive Officer.

Mr. MCCAIN. Also, interestingly, I have received numerous letters from small cable companies and electric cooperatives all over America.

The Williams Cable Services in Phoenix, AZ; Eastern Illinois Electric Cooperative; the Little OCMUCLG Service in Georgia; Agate Mutual Telephone Co. in Colorado; the Volcano Vision Co. in Pine Grove, CA; Oklahoma Telephone Co., Davenport, OK; Turner Vision in Bluefield, WV; Kansas DBS, Flint Hills Rural Development Corp.; South Alabama Electric Cooperative, Adams Telephone Co., and others who are all in favor of giving the American taxpayers $300 to $700 million and make this a competitive process.

Mr. GRAMM. If the distinguished Senator has time, let me ask a question to be sure I have this. Back when we used to give spectrum away, we gave spectrum to a company that took it on the agreement that they would use it, that they would initiate construction, that they would begin to broadcast on that signal.

The date that they agreed to is now past; is that right?

Mr. MCCAIN. Long past, yes.

Mr. GRAMM. Now, having gotten the spectrum free and having gotten it for a specific purpose free, the date by which it had to be utilized is past, and now they are asking permission to sell it for $5 million, if I heard the Senator correctly.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAMM. Mr. President, I ask unanimous consent for 2 additional minutes, if the Senator will so yield?

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

Mr. GRAMM. So their time for using the spectrum having expired, they are now proposing to sell it for $5 million. But, if I heard the Senator right, if we asserted the right of the taxpayer to have the spectrum back, since the user has not fulfilled its end of the contract, we could sell that spectrum for how much money?

Mr. MCCAIN. I would say to my friend, first of all, they were going to sell it to TCI for $45 million instead of $5 million, and they were awarded this license in 1984. Mr. President, 10 years later, in 1994, they had still not done a single thing in order to comply with the purposes of the license, in other words set up a DBS system.

The estimates are between $300 and $700 million would be the price of this spectrum at an auction. There are several major competitors.

The reason why there is such a huge spread, between $300 million and $700 million, is because the amounts we have already received from spectrum auctions have doubled the original estimates that we received from other spectrum auctions.

Mr. GRAMM. So the request is, having not fulfilled their commitment to the taxpayer, they want the right to sell it to somebody for $45 million, when, if we exercised the contract on behalf of the taxpayers and took it back, we would get between $300 and $700 million—million?

Mr. MCCAIN. Million.

Mr. GRAMM. Between $300 and $700 million for it. In essence, the Senator's amendment is trying to protect the taxpayer from losing a minimum of a quarter of a billion dollars by simply enforcing our end of the contract?

Mr. MCCAIN. I would say to my colleague in response, he is correct. That is why the Citizens Against Government Waste, the Consumer Federation, National Taxpayers Union, and others

are all in favor of this amendment, because of the enormous benefit, of $700 million.

Mr. BURNS. Will the Senator yield?

Mr. MCCAIN. My friend from New Mexico was kind enough to yield time to me. I will be reluctant to use over that time because he has an amendment.

The PRESIDING OFFICER (Mr. BENNETT). The time of the Senator from Arizona has expired.

Mr. DOMENICI. Mr. President, I have no objection if they want to use some additional time.

How much time would the Senator like, Senator MCCAIN, another 5 minutes?

Mr. MCCAIN. The Senator from Montana wanted to speak.

Mr. BURNS. I ask unanimous consent I have 1 minute just to ask a question in response, because I think it is important this body understand this.

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

Mr. DOMENICI. Senator, I listen to you frequently and you need 2 minutes.

Mr. BURNS. I need 2 minutes?

Mr. DOMENICI. Yes.

Mr. BURNS. I may need more than that. I think it is important for this body to understand that the spectrum has already been reclaimed and is owned now by the FCC. It is available for sale. Is that not correct, I will ask my friend from Arizona?

Mr. MCCAIN. That is correct. But the contract that was entered into 3 months before the license was revoked is still a pending item before the FCC.

Advanced had over 10 years, including one 4-year extension, in which to construct and launch its DBS system. It failed to do so. It failed to meet the Commission's due diligence rules, imposed a decade go to ensure the public received prompt service therefor, if the channels have gone unused. Only by enforcing the progress requirements of the Commission's rules can we ensure that allocated resources will be efficiently and expeditiously put into productive use.

Mr. BURNS. I appreciate that. The only reason I ask the question is I think we should be very sure of our grounds here. Who actually owns that spectrum? Is it still in the hands of the original winner in the lottery? Or is it owned by the FCC? I think that is a question we should ask before we consider this amendment. I am just trying to clarify that.

Mr. MCCAIN. Let me try to clarify it one more time. Because the company did not exercise due diligence over 10 years, the FCC reclaimed it. Now it is up to the FCC as to how they want to dispose of it.

Mr. BURNS. If the Senator is correct, then that clarifies my question. I thank the Senator from Arizona.

Mr. BROWN. Will the Senator from Arizona yield? I ask unanimous consent to have 2 minutes to ask the Senator from Arizona a question.

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

Mr. BROWN. I will ask the Senator from Arizona, he has indicated his amendment will have a positive revenue impact, save millions of dollars. Has the amendment been reviewed by the Congressional Budget Office? And what is their estimate of how much money it raises?

Mr. MCCAIN. It has been scored as zero because it does not change the baseline. But I can tell my friend, it is patently obvious that if a spectrum is going to be auctioned off for somewhere between $300 million and $700 million, there is going to be an impact.

Mr. BROWN. The Senator has indicated—or the literature here indicated these channels may be available for auction. Let me ask, has the Commission made a final ruling as to whether or not these are to be forfeited?

Mr. MCCAIN. The Commission has not and is looking for guidance from the Congress.

Mr. BROWN. I might indicate what my sense of the amendment is. First of all, it does not raise anything because CBO has not looked at it. And, No. 2, it is disposing of property someone else ostensibly has a title to and the FCC has not cleared it.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, Senator BROWN is here. I do not know that Senator MCCAIN, accurately, Senator BROWN, described the time you would need. He suggested 10 minutes? Is that 10 for you and 10 for somebody else?

Mr. MCCAIN. I suggested, and I would like to modify it concerning the desires of the Senator from Colorado, 20 minutes for the Senator from Colorado and 10 minutes for the Senator from North Dakota.

Mr. GRAMM. My colleague needs to get some time for himself. And 10 minutes for you.

Mr. BROWN. My understanding was the discussion involved some intermittent time so I might become familiar with the needs of the Senator from Arizona. My hope is the distinguished Senator from New Mexico might go ahead. Obviously, I am agreeable to an appropriate amount of time for the Senator from Arizona to respond to whatever is raised on the floor.

The time someone may wish, I would have no problem to work out something.

Mr. DOMENICI. Senator MCCAIN, I assume now from your vantage point from getting this up things are under control and I can proceed? You are all right?

Mr. MCCAIN. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. I thank the Senator from New Mexico for his courtesy and patience.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I discussed with the distinguished Senator from Texas, the manager of the bill, and the Senator from New Mexico a unanimous-consent request I would like to offer; that I be allowed to set aside the pending business for 2 minutes, request the yeas and nays, and go back immediately to the business of the distinguished Senator from New Mexico?

Mr. DOMENICI. Mr. President, I have no objection.

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

The Senator from Nebraska.

AMENDMENT NO. 2817

(Purpose: To decrease the amount of funding for Federal Bureau of Investigation construction and increase the amount of funding for the National Information Infrastructure)

Mr. KERREY. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. GRAMM. Mr. President, has a unanimous-consent request been propounded?

Mr. KERREY. Yes. The Senator from Nebraska asked to have 1 minute to propose an amendment.

Mr. KERREY. Mr. President, 2 minutes.

Mr. GRAMM. Has that unanimous-consent request been agreed to?

The PRESIDING OFFICER. Yes.

Mr. GRAMM. Parliamentary inquiry. This amendment will be, after he presents it, it will be set aside and be fully debatable at that point, is that right?

The PRESIDING OFFICER. That is correct.

Mr. GRAMM. I thank the Chair.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY], for himself, Ms. SNOWE, Mr. LEAHY and Mr. LIEBERMAN, proposes an amendment numbered 2817.

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

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

The amendment is as follows:

At the appropriate place in the bill insert the following: ''The amounts made available to the Department of Justice in Title I for administration and travel are reduced by $19,200,000.''

On page 73, between lines 4 and 5, insert the following:

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $18,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided,* That not to exceed $900,000 shall be available for program administration and other support activities as authorized by section 391 of the Act including support of the Advisory Council on National Information Infrastructure: *Provided further,* That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: *Provided further,* That notwithstanding

the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety, or other social services: *Provided further,* That in reviewing proposals for funding, the Telecommunications and Information and Infrastructure Assistance Program (also known as the National Information Infrastructure Program) shall add to the factors taken into consideration the following: (1) the extent to which the proposed project is consistent with State plans and priorities for the deployment of the telecommunications and information infrastructure and services; and (2) the extent to which the applicant has planned and coordinated the proposed project with other telecommunications and information entities in the State.

Mr. KERREY. The amendment I offer on behalf of myself, Senators LEAHY, and LIEBERMAN, is a very straightforward amendment. It restores $18.9 million to telecommunications and information and infrastructure assistance programs.

This program has been highly successful with thousands of applications for this. It is a matching program to get at least 2 for 1 for every dollar that goes out. It is community-based. Community-based organizations across the country have used this program to increase the educational effort in the telecommunications effort. It has created jobs. It has created real advancement of understanding of how this telecommunications revolution can produce benefits at the local level.

Mr. President, I understand that some of the objections have been raised to this program; talked about it being something that has not proven up. I urge my colleagues to look at not only the success we have but the backlog coming up. We have enjoyed a tremendous success with this program. It is not a program that is just throwing money out there. It is a program that requires a match from the community level. It is a program that empowers citizens at the local level to make decisions about how they want to increase jobs and education in their own communities. It has a fully funded offset.

I hope that my colleagues will consider and support a program that will create jobs, and will create more empowerment for the American people at the local level.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order the Senator from New Mexico is recognized.

Mr. DOMENICI. 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. GRAMM. 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. GRAMM. Mr. President, we continue to have some problems in that people are trying to find offsets for their amendments. It takes time to do that, and they discover that others have used the funds available. It should be hard to spend money. So I am not complaining about it. But to try to sort of bring some order to the process, I would like to ask unanimous consent that the distinguished Senator from Colorado, Senator BROWN, be recognized for up to 10 minutes to offer an amendment; after the 10 minutes, that the amendment would be set aside and would be fully subject to debate or any other relevant motions.

Then the Senate would go back to a debate on the MCCAIN amendment until that debate is completed. If a rollcall vote is asked for on the MCCAIN amendment, then it would be stacked after the rollcall vote, currently scheduled for 9 o'clock, is completed. At that point, Senator BIDEN would be recognized to offer his omnibus crime amendment. There would be 2 hours of debate equally divided, which would get us to the 9 o'clock hour, at which point we would have a vote on the pending amendment. If there is a rollcall vote asked——

Mr. MCCAIN. It has already been requested.

Mr. GRAMM. It has already been requested. We would have a vote on the MCCAIN amendment, and at that point the Biden amendment would still be pending, and if the debate is completed, we would have that vote at that point.

I propound that unanimous-consent request.

Mr. HATCH. Will the Senator yield?

Mr. HOLLINGS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I hope not to object, but to be able to answer the MCCAIN amendment we need a little time, 10 minutes to explain that amendment—if the Senator will put that in the unanimous consent, that we have 10 minutes to explain it.

Mr. INHOFE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. If I could inquire of the manager, where does that leave the Domenici amendment?

Mr. GRAMM. The Domenici amendment would then be brought up after the votes had occurred beginning at 9 o'clock.

Mr. HATCH. Reserving the right to object.

Mr. DOMENICI. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. As I understand it, we were supposed to go after the MCCAIN amendment. Ours would not take a very long time, but I would like to go before we had the 2 hours, if we can. Is it possible to do that, I ask the managers of the bill?

Mr. DOMENICI addressed the Chair.

Mr. HATCH. Could I just ask that of the manager of the bill?

Mr. DOMENICI. Reserving the right to object, I say to the Senator, I have a few inquiries. It is my amendment being set aside here.

Mr. President, let me ask Senator GRAMM, there is an accommodation we are trying to make. I am now prepared to proceed with my amendment. I told the Senator I had been working on it because it is complicated, and we did get switched signals in terms of the money we had available. But I am prepared now. So I do not want to delay it the longest possible time. I wish to get it up soon. So when would the Senator from Texas be ready to discuss the Domenici amendment? Would the Senator be ready at 8 o'clock?

Mr. GRAMM. I would be perfectly happy to have the Senator bring the amendment up, offer it, lock in his offsets, if he has them, and I think that is a legitimate concern. What I would like to do, given that we had talked about having the debate on the Biden amendment begin at 7, is, if the Senator offers the amendment now, to come back to it.

This is a very important amendment to me. I am strongly opposed to it. And I think it will be something that will be debated at some length. Clearly, the distinguished Senator from New Mexico has the right to the floor under the unanimous-consent request. So if he wants to exercise that now, he can. And perhaps we might look at the following potential unanimous-consent request—that he would bring up the amendment and debate it for up to 20 minutes. Then it would be set aside. Senator BIDEN would be recognized to bring up his omnibus amendment, 2 hours equally divided, and at that point we would have reached the hour of 9 o'clock and we will have the first vote. We at that point could either go back to the MCCAIN amendment and dispose of it or we could go back to the Domenici amendment and debate it. Either of those things I would be agreeable to.

Mr. DOMENICI. Mr. President, I say to the Senator from Texas and Senator HOLLINGS, what I would prefer to do—and I ask a parliamentary inquiry. What is the agreed upon time for a vote tonight?

The PRESIDING OFFICER. A vote has been ordered to occur at 9 p.m. tonight.

Mr. DOMENICI. On which amendment?

The PRESIDING OFFICER. On the Biden amendment.

Mr. DOMENICI. I would be glad to accommodate anybody the chairman wants to accommodate, except I would like him to include in the unanimous-consent agreement that immediately after the first vote on the Biden amendment, that Senator DOMENICI is

permitted to offer his amendment; that it be debated in full, whatever time that takes, and that it be voted on immediately following—it be the next vote following the Biden vote. That gives the Senator plenty of time, Mr. President, for what he desires.

Mr. GRAMM. If the distinguished Senator will yield, I have no objection to what the Senator is doing, but it may well be that we might have an extended debate.

Mr. DOMENICI. Sure.

Mr. GRAMM. And we might decide for some reason that we might want to go ahead and consider other amendments intervening.

Mr. DOMENICI. We might do that in due course.

Mr. GRAMM. So I am reluctant to lock us into voting on the Domenici amendment next.

Mr. DOMENICI. I did not ask for that. I said the next amendment we vote on would be the Domenici amendment. The Senator can have some other amendments he wants to bring up. Get unanimous consent for that. I think that is fair. I have been accommodating everyone.

Mr. MCCAIN. Will the Senator from New Mexico agree to have a vote on my amendment following the Biden amendment? The yeas and nays have already been ordered.

Mr. DOMENICI. The problem I have is I very much want to debate tonight the Domenici amendment. There are a lot of Senators who want to debate it. Senator GRAMM has a lot of people. I have been accommodating. The Senator's amendment will get voted on very soon but mine would precede that. I just ask that as a request.

Mr. GRAMM. Will the distinguished Senator yield?

Mr. DOMENICI. Of course.

Mr. GRAMM. I would like to get an agreement that allows the distinguished Senator from New Mexico bring up his amendment now, speak on that amendment as long as he chooses to, then Senator BIDEN would be recognized to offer his omnibus amendment, which is a crucial element to the completion of this bill, that there be 2 hours of debate equally divided, that would get us somewhere close to 9. We would have the pending vote. We would have the vote on the Biden amendment. Then the Senator's amendment would be the pending business and we would vote on it. And we would not vote on anything else until we voted on it.

Mr. DOMENICI. Reserving the right to object, Mr. President, all I want to do—I do not want to put my amendment down and debate it for 10 or 15 minutes. Just change the request so that I bring mine up immediately following the Biden amendment, and it is debated as long as necessary and then you have a deal.

Mr. GRAMM. All right.

I ask unanimous consent that the next amendment to be considered be the Biden amendment; that there be 2 hours equally divided on that amendment; that if a vote is ordered on that amendment, it occur immediately after the pending amendment, which will be voted on at 9 o'clock; that the distinguished Senator from New Mexico be recognized at that point to offer his amendment.

Mr. MCCAIN. Reserving the right to object, what does that do to the MCCain amendment?

Mr. GRAMM. It will simply be pending and will be the order of business when the Domenici amendment is disposed of.

Mr. DOMENICI. Which is what I thought we had in mind when I permitted the Senator to bring up his amendment. I think that is fair.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. Mr. President, I permitted the Senator's amendment to come up.

Mr. GRAMM. That is right.

Mr. MCCAIN. And we debated it and all we need to do is have a vote on it, it seems to me.

Mr. DOMENICI. Mr. President, that is all right with me. Get him in, too. No more debate.

Mr. MCCAIN. I withdraw my objection.

Mr. DOMENICI. I thank the Senator.

Mr. HOLLINGS. Mr. President, I ask Senator GRAMM, there will be no amendments to the Biden amendment?

Mr. GRAMM. I am not in a position that I can commit to that, I say to the Senator, because we have not checked on our side. We have not seen the final form of the BIDEN amendment. What I am trying to do is just have it considered. I assume there will not be—I assume we have the votes, but we want to look at it.

Mr. HOLLINGS. We cannot agree to the time limit.

Mr. GRAMM. There is not a time. We are just saying it will be debated between 7 and 9, and that if it is completed, that it would be the vote after 9. If it is not, it would be pending.

Mr. HOLLINGS. All right. Get it up.

Mr. BRYAN. Mr. President, reserving the right to object, if I might inquire of the floor managers, I just came to the floor a few moments ago, so I have not heard the colloquy. I want the managers of the bill to know that Senator BURNS and I have an amendment concerning USPTA, and I just want to make sure that the terms of the unanimous consent would not preclude us from having an opportunity to offer that amendment and perhaps have a vote. We do not need to do it this evening. We can go tomorrow. I want to assure my colleague that I am willing to cooperate and work with him. I do not know the terms of the agreement.

Mr. GRAMM. If the Senator will yield, nothing in this unanimous-consent request would in any way limit the Senator's ability to offer his amendment or any other amendment.

Mr. BRYAN. I appreciate that.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, I say to my friend from Texas, I do not remember the word he used—how did he oppose my amendment? Perfectly? What was the word?

Mr. GRAMM. With righteous passion.

Mr. DOMENICI. I want to say I oppose what he is for in terms of doing away with legal services with whatever passion he just described. So we know it is all even.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. I have a question, Mr. President. And I am sorry, I was not in the Chamber. My question is, Mr. President, has the Senator from Texas propounded a unanimous-consent request and has that request been accepted at this point?

The PRESIDING OFFICER. That is correct.

Mr. PRYOR. Mr. President, if I may pose a question, I have an amendment that I would like to offer at some point. It can be done tonight, it can be done early in the morning, or any time. I am joined in that amendment by the distinguished Senator from Maine [Ms. SNOWE]. It would be a sense-of-Congress resolution relative to the Economic Development Administration. I am just wondering at what point or what order we could try to factor this particular amendment into the list?

Mr. GRAMM. If the distinguished Senator from Arkansas will yield——

Mr. PRYOR. I will be glad to yield.

Mr. GRAMM. It sounds to me as if we have a pretty full schedule for the rest of the evening. My guess is that tomorrow morning would be a good time. But it may well be at some time tonight people will decide to get finished, at which point obviously the Senator could offer the amendment.

We are basically set now in terms of unanimous consent on two amendments. One is a fairly comprehensive amendment by Senator BIDEN where we will have 2 hours equally divided. Then we are going to Senator DOMENICI on trying to bring back the Federal Legal Services Corporation, which will be debated, I would think, pretty extensively. We have an amendment pending by the Senator from Arizona. So I cannot tell the Senator that he would not get to offer it tonight, but if I were the Senator, if we are here tomorrow, I would try to do it in the morning.

Mr. PRYOR. Mr. President, if I could respond to my colleague, my friend from Texas, I have no problem offering the amendment tomorrow if I have just as much certainty as possible in the time sequence, because I have three amendments that I must offer in the Finance Committee markup on Medicare-Medicaid, and I am just trying to sort of find out where I should be and which time I should be there.

Mr. GRAMM. Mr. President, I am sure that the same is true for Senator HOLLINGS. We would try to accommodate the Senator in every way we can.

Mr. PRYOR. Mr. President, I thank the distinguished Senator.

Mr. HOLLINGS. Mr. President, as I understand now, in the unanimous-consent agreement, Senator BIDEN will commence at 7 o'clock. To try to save a little time, I was off the floor momentarily at the time of the presentation of the amendment of the Senator from Arizona. The amendment of the Senator from Arizona as he relates it could be very accurate. On the other hand, I have heard different facts.

What occurs here is, as the Senator from Arizona has outlined the amendment, the FCC is asking for guidance. Whenever that occurs, beware, for the simple reason that we have an FCC to have full hearings to hear both sides of a particular case and issue and thereupon make a decision.

I have heard from both sides spasmodically. I have not called the FCC myself. I wanted to stay out of the case. But right to the point, it is my understanding there is sort of a split down there. And there is a definite difference of opinion with respect to due diligence being used on the granting of a particular license to an entity out there, I think, in Arizona.

The Arizona folks, it is related, did use due diligence, and came back twice to the Federal Communications Commission and were granted on both occasions extensions, because what is involved here is a satellite spectrum usage encompassing quite a commitment of financial support.

That commitment of financial support was finally obtained and committed, and there is related $1 billion that has been committed, and there is a launch date for that particular satellite in April of next year.

Now, this is in issue. And as the Commission was temporarily making a ruling, the parties involved appealed that particular ruling. And it is now under appeal. So what happens is that the case comes to the Congress, and some of us Senators on the Commerce Committee who are interested, of course, and disposed to Federal Communications matters, but without any hearing, and without knowing what is best to be done, I have always come down, because this occurs every time we get up to a particular bill or something, somebody brings up a fix, if you please, Mr. President, of a case down at the FCC.

I have been very cautious and astute not to join in those particular fixes. Specifically, I was asked if I could go along with an amendment that would do as is indicated by Senator MCCAIN. And I said no. I think we ought to leave it with the Commission.

Thereupon, I was asked if I would go along with an amendment on the other side. Go along with it and allow them to set fees and whatever it was. I said no. We are not giving authority for the FCC to become more or less a Congress setting fees. And I withheld my approval of that.

I said I simply think, under the circumstances, that it is best that the Congress not be involved in a half-of-a-hair-cut situation here whereby we have not had a single hearing.

The Chairman of the Commission has not asked my guidance. If somebody says they are asking guidance, I do not have any written letters or anything else like that on this particular matter. Therefore, I am opposed to the amendment. I want to talk it out with the distinguished Senator from Arizona. I know his intent is sincere. But I think this is the kind of amendment that ought to be tabled.

I only state this to use up some of the time. I see others want to use some time prior to 7, but I wanted to say that I am sorry I could not respond at the particular time that the Senator from Arizona presented his amendment. I left the floor with the understanding that the Senator from New Mexico was going to present his.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

U.N. PEACEKEEPING

Mr. SIMON. Mr. President, I am pleased with the negotiations that have taken place with Senator HOLLINGS, Senator HATFIELD, Senator BIDEN, Senator GRAMM, and others. They have improved this bill.

Let me add one concern I do have. This bill authorizes $250 million for U.N. peacekeeping. The request from the President was $445 million. The House figure—in most areas the House is, frankly, worse than the Senate—the House figure is $425 million. Again, our figure is $250 million. The authorization figure from the Foreign Relations Committee, chaired by Senator HELMS, is $445 million—and we have $250 million here. This is on top of what we have been doing to not pay our dues in the United Nations. We are the No. 1 deadbeat in the world.

Yesterday morning's New York Times has a story ''To Pay Some Debts, U.N. Will Try Borrowing From World Bank.'' We owe $1.2 billion to the United Nations. They would not have to be going to the World Bank if we paid our bills.

I ask unanimous consent to have that article printed in the RECORD at this point, Mr. President.

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

[From the New York Times, Sept. 27, 1995]

TO PAY SOME DEBTS, U.N. WILL TRY BORROWING FROM WORLD BANK

(By Barbara Crossette)

UNITED NATIONS, Sept. 26.—The United Nations, facing its most severe financial crisis in half a century, will try for the first time to borrow money from the World Bank to pay some of its debts, the organization's highest-ranking financial officer said today.

Joseph Connor, a former chief executive of Price Waterhouse who is now United Nations Under Secretary General for Administration and Management, said today that a World Bank loan was only one of many ideas being explored ''to lift from our shoulders the burden of debt.''

Secretary General Boutros Boutros-Ghali said in an interview on Saturday that he planned to meet the World Bank president, James D. Wolfensohn, this weekend to discuss the proposal.

In the past, the United Nations has borrowed small amounts for specific development projects, Mr. Connor said, but there is no precedent for a loan of this kind, which would go to paying off some of the organization's growing general indebtedness.

''This crisis cannot be solved unless we can borrow money,'' the Secretary General said.

The United States, which is at least $1.2 billion in arrears in its dues to the United Nations, is expected to challenge the plan, an American diplomat said.

The American opposition to any new idea for raising money surprised diplomats from Europe and elsewhere, whose governments pay their bills regularly. A Western diplomat said today that with the United States the largest defaulter in assessments, it seemed inexplicable that the Clinton Administration would make things worse behind the scenes.

An American diplomat said today that the Administration had ''two basic problems'' with the loan plan.

''The United Nations and the Secretary General have no authority to borrow externally,'' the diplomat said. ''And borrowing from the World Bank is restricted to sovereign governments.''

The World Bank is technically part of the United Nations system, although the bank and the International Monetary Fund, both based in Washington, operate with considerable independence.

The United Nations, which has not capital base and cannot borrow commercially, is owed $3.4 billion in unpaid assessments, of which the United States owes roughly half.

The organization is $900 million in arrears in payments to countries that have provided peacekeeping troops and $400 million for purchases of various kinds. Half of the tens of millions of dollars awarded in contracts each year go to American companies.

''Our inability to pay is impacting the willingness of countries to participate in peacekeeping,'' Mr. Connor said. The operation in Bosnia alone is costing nearly $5 million daily, according to the Secretary General.

In a speech today to the General Assembly, the British Foreign Secretary, Malcolm Rifkind, proposed charging interest on late payments as one way of tightening penalties against member nations in arrears. He said 39 nations failed to pay anything at all last year.

In June at the meeting of the Group of Seven major industrial nations, Mr. Boutros-Ghali proposed that the United Nations would take bonds from nations owing money and use them to settle debts with other member countries. That idea was also opposed by the United States.

Mr. Connor said today that the bulk of the money owed by the United Nations for peacekeeping is in debts to Western European nations, Australia, Canada and other countries close to the United States.

Mr. SIMON. Then I would like to insert two other things into the RECORD. One is a statement by the Council for a Livable World, whose good work I think many of us acknowledge. This is a statement in support of U.N. peace operations, signed by a great many people. I ask unanimous consent that that be printed in the RECORD.

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

STATEMENT IN SUPPORT OF U.N. PEACE OPERATIONS

The United Nations is playing an increasingly critical role in preventing and resolving conflicts that have broken out across the globe. We welcome this expanded mission envisioned in the original U.N. charter but impeded by the Cold War. While the U.N. has not proved a panacea, it has achieved remarkable successes in countries such as Namibia, in El Salvador and in Cambodia.

International peacekeeping is not an altruistic endeavor; it directly serves U.S. security, political and commercial interests. As U.S. Ambassador to the U.N. Madeleine Albright has stated: ''Whether measured in arms proliferation, refugees on our shores, the destabilization of allies, or loss of exports, jobs or investments, the cost of runaway regional conflicts sooner or later comes home to America. In 1993, the U.N. will spend over $3 billion to stem or stop those conflicts, and we will pay one third of that. But without the U.N., both the costs and the conflict would be far greater.''

However, the fate of peace operations hangs in the balance, in part due to crippling funding shortfalls and decreasing national political support for the United Nations as it seeks to reform and to meet new challenges. Although the U.N. is often a first line of crisis response overseas, the United States and other nations consistently fall behind in paying dues and peacekeeping assessments. These overdue bills serve to cripple the U.N.'s ability to respond rapidly to crises and implement needed reforms. In addition, Congressional critics have singled out U.N. peace operations as a vehicle for expressing their dissatisfaction with broader issues, from the defense budget and military readiness to U.S. interests abroad, and have sought to curtail already limited participation of U.S. armed forces in U.N. peace operations.

We endorse multilateral, burden-sharing approaches to preventing and resolving conflicts. In particular, we support strengthening the United Nations' ability to conduct peace operations. To encourage these approaches, we strongly urge the U.S. and all nations to pay on time their dues and peacekeeping assessments, and to pay all their arrearages to the United Nations. The United States must avoid the costs and dangers of a unilateral role as world policeman.

A policy that provides only weak financial and political support for peacekeeping jeopardizes the United Nations' long-term future. If the U.N. is not given the resources and encouragement to improve its capabilities, confidence in it will be undermined. The world community will have sacrificed the chance to establish a truly effective multilateral peacekeeping process, with emphasis on conflict prevention. The world will become more dangerous, to the detriment of our own security.

We should take advantage of the post-Cold War situation and apply the lessons of peacekeeping from the past several years to reform and expand U.N. peace operations and make them more effective. Peace operations, which give the U.S. an opportunity to help in reducing the worldwide level of armed violence with minimum risk and cost, are squarely in our national interest.

SIGNATORIES TO STATEMENT IN SUPPORT OF U.N. PEACEKEEPING—SEPTEMBER 5, 1995

Ruth Adams, Director, Program on Peace and International Cooperation, MacArthur Foundation (retired).

Chadwick F. Alger, Professor, The Ohio State University.

John B. Anderson, President, World Federalists Association.

Mary Appelman, Chairperson, America-Israel Council for Israeli-Palestinian Peace.

Ambassador (ret.) Alfred Leroy Atherton, Jr., Former Assistant Secretary of State for Near East and South Asian Affairs (1974–1978); Ambassador to Egypt (1979–1983).

Morton Bahr, President, Communications Workers of America.

Carol Edler Baumann, Director, Institute of World Affairs.

David Beckmann, President, Bread for the World.

The Honorable Berkley Bedell, Former U.S. Representative from Iowa (1975–1986).

Marguerite Belisle, General Director, Church Women United.

Gregory A. Bischak, Executive Director, National Commission for Economic Conversion and Disarmament.

Brent Blackwelder, President, Friends of the Earth.

Barry Blechman, Chairman, The Henry L. Stimson Center.

Robert L. Borosage, Director, Campaign for New Priorities.

Robert Bowie, Former Counselor, U.S. Department of State (1966–1968); Assistant Secretary of State for Policy Planning (1953–1957).

John A. Buehrens, President, Unitarian Universalist Association.

George Bunn, Former General Counsel, Arms Control and Disarmament Agency (1961–1969); U.S. Ambassador to the Geneva Disarmament Conference (1968).

Becky Cain, President, League of Women Voters.

Rev. Dr. Joan Brown Campbell, Secretary General, National Council of Churches of Christ in the U.S.A.

Hodding Carter III, Former Assistant Secretary of State for Public Affairs (1977–1980).

Abram Chayes, Professor of Law Emeritus, Harvard Law School.

Antonia A. Chayes, Chair, Consensus Building Institute.

Rev. Drew Christiansen, S.J. Director, Office of International Justice & Peace, U.S. Catholic Conference.

Harlan Cleveland, President, World Academy of Art and Science; Former Assistant Secretary of State for International Organization Affairs (1961–1965); Ambassador to NATO (1965–1969).

Juan R.I. Cole, Professor of History, University of Michigan.

Imani Countess, Executive Director, Washington Office on Africa.

Chic Dambach, President, National Peace Corps Association.

Dave Davis, Senior Fellow, Institute of Public Policy, George Mason University.

Ambassador (ret.) Jonathan Dean, Advisor on International Security Issues, Union of Concerned Scientists; Former arms control negotiator, U.S. Department of State.

I.M. Destler, Director, Center for International and Security Studies, University of Maryland.

Kay S. Dowhower, Director, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America.

Nancy Bearg Dyke, Director, Managing Conflict in the Post-Cold War World, Aspen Institute; Former Director of International Programs and Public Diplomacy, National Security Council (1989–1993).

Helen Fein, Executive Director, Institute for the Study of Genocide.

Evelyn P. Foote, Brigadier General, U.S. Army (Retired).

Randall Forsberg, Executive Director, Institute for Defense & Disarmament Studies.

Jerry Genesio, Executive Director, Veterans for Peace.

William. Goodfellow, Executive Director, Center for International Policy.

Charles D. Gray, Director of International Affairs, AFL–CIO.

Barbara Green, Presbyterian Church/USA.

Rita Greenwald, President, National Council of Catholic Women.

Richard Hahnen, President, Global Security Research Institute.

Sam Harris, Executive Director, RESULTS.

The Honorable John W. Hechinger, President, Hechinger Company; Former U.S. Delegate to the 33rd United Nations General Assembly (1978).

J. Bryan Hehir, Professor of Religion and Society, Center for International Affairs, Harvard University.

P. Terrence Hopmann, Director, Center for Foreign Policy Development, Watson Institute for International Studies, Brown University.

Dixie Horning, Executive Director, Gray Panthers.

John Isaacs, President, Council for a Livable World Education Fund.

Jason Isaacson, Director of Government and International Affairs, American Jewish Committee.

Douglas M. Johnston, Vice President, Center for Strategic & International Studies.

Carl Kaysen, D.W. Skinner Professor of Political Economy, Emeritus, Massachusetts Institute of Technology.

John B. Kidd, Major General, U.S. Air Force (ret.).

Michael Klare, Professor of Peace and World Security Studies, Hampshire College.

Rev. Peter J. Klink, S.J., Director, National Office, Jesuit Social Ministries.

Lawrence Korb, Former Assistant Secretary of Defense (1981–1985); Chair, Executive Council, Committee for National Security.

Dr. Jean E. Krasno, Associate Director, United Nations Studies, Yale University.

Louis Kriesberg, Professor of Sociology, Syracuse University.

Betty Lall, Former Staff Director, Committee on Disarmament, U.S. Senate.

John A. Lapp, Executive Director, Mennonite Central Committee.

Ambassador (ret.) James F. Leonard, Former U.S. Deputy Permanent Representative to the United Nations (1977–1979).

Victoria Markell, Vice President, Population Action International.

J. Paul Martin, Executive Director, Center for the Study of Human Rights, Columbia University.

Charles W. Maynes, Former U.S. Assistant Secretary of State for International Organizations (1977–1980).

The Reverend Charles S. Miller, Executive Director, Division for Church in Society, Evangelical Lutheran Church in America.

Terence Miller, Director, Maryknoll Society Justice and Peace Office.

Gerald Mische, President, Global Education Associates.

Thomas B. Morgan, President & CEO, United Nations Association of the United States of America.

Dr. Robert K. Musil, Executive Director, Physicians for Social Responsibility.

Dr. David Mussington, Co-Director, International Organizations and Nonproliferation Project, Monterey Institute of International Studies.

Ester Neltrup, Executive Director, Institute for International Cooperation & Development.

Janne E. Nolan, Senior Fellow, Brookings Institution.

Charles H. Norchi, Executive Director, International League for Human Rights.

Ambassador Robert S. Oakley, Ambassador to Zaire (1979–82); Ambassador to Somalia (1982–84); Ambassador to Pakistan (1988–91); Special Envoy to Somalia (1992–94); Visiting Fellow, National Defense University.

Dr. Robert von Pagenhardt, Professor, Defense Resources Management Institute, Naval Postgraduate School.

Maurice S. Paprin, President, Fund for New Priorities in America.

Dan Plesch, Director, British American Security Information Council.

George W. Rathjens, Professor of Political Science, Massachusetts Institute of Technology.

Michael Renner, Senior Researcher, Worldwatch Institute.

Stanley R. Resor, Former Secretary of the Army (1965–1971); Chair, Board of Directors, Arms Control Association.

Anna Rhee, Executive Secretary for Public Policy, Womens Division, United Methodist Church.

Charolett Rhoads, President, Pax World Service.

Howard Ris, Executive Director, Union of Concerned Scientists.

Eugene T. Rossides, Chairman, American Hellenic Institute.

Caleb Rossiter, Director, Project on Demilitarization and Democracy.

Dr. Robert A. Rubinstein, Director, Program on the Analysis and Resolution of Conflicts, Syracuse University.

Dr. Ben Sanders, Executive Chairman, Programme for Promoting Nuclear Non-Proliferation.

James A. Schear, Senior Associate, Carnegie Endowment for International Peace.

Arthur Schlesinger, Jr., Special Assistant to the President (1961–1964); Winner, Pulitzer Prize for History.

G. Edward Schuh, Dean, Humphrey Institute of Public Affairs, University of Minnesota.

Richard Seitz, Colonel, U.S. Army (Ret.).

Susan Shaer, Executive Director, Women's Action for New Directions.

Vice Admiral John J. Shanahan (ret.), Director, Center for Defense Information.

Jane M.O. Sharp, Director, Defence and Security Programme, Institute for Public Policy Research, King's College.

Jack Sheinkman, President, Amalgamated Clothing and Textile Workers Union.

Paul H. Sherry, President, United Church of Christ.

Michael Shuman, Director, Institute for Policy Studies.

Alice Slater, Executive Director, Economists Allied for Arms Reduction.

Judith Sloan, Director, Asia Society.

Gaddis Smith, Director, Yale Center for International & Area Studies.

Theodore C. Sorenson, Former Special Counsel to the President (1961–64).

Ronald Spiers, Former Assistant Secretary of State for Politico-Military Affairs (1969–1973); U.N. Under Secretary-General for Political Affairs (1989–1992).

John D. Stempel, Patterson School of Diplomacy & International Commerce, University of Kentucky.

Jeremy J. Stone, President, Federation of American Scientists.

Russy D. Sumariwalla, President & CEO, United Way International.

Julia Taft, President, InterAction.

Kathy Thornton, RSM, National Coordinator, NETWORK: A National Catholic Social Justice Lobby.

Ambassador (ret.) William J. vanden Heuvel, Former Ambassador to the Deputy Permanent Representative to the U.N. (1979–1981); President, The Franklin and Eleanor Roosevelt Institute.

Raimo Vayrynen, Professor, Regan Director, University of Notre Dame.

George R. Vickers, Executive Director, Washington Office on Latin America.

Edith Villastrigo, National Legislative Director, Women Strike for Peace.

Joe Volk, Executive Secretary, Friends Committee on National Legislation.

Paul C. Warnke, Former Assistant Secretary of Defense for International Security Affairs (1967–69) Director, Arms Control and Disarmament Agency & Chief U.S. Arms Negotiator (1977–1978).

The Rev. Dr. Daniel E. Weiss, General Secretary, American Baptist Churches, USA.

Dr. Michael Wessells, President, Psychologists for Social Responsibility.

John C. Whitehead, Former Deputy Secretary of State (1985–1989); Chair, International Rescue Committee.

Roger P. Winter, Director, U.S. Committee for Refugees.

Adam Yarmolinsky, Former Special Assistant to the Secretary of Defense (1961–1964); Chairman, Lawyers Alliance for World Security.

Andrew Young, Former U.S. Ambassador to the United Nations (1977–1979); Vice Chairman, Law Companies Group, Inc.

FINANCING THE UNITED NATIONS

The greatest threat today to the U.N.'s effectiveness and even survival is the cancer of financial insolvency. Countries slow to pay their share include many that are small. But it is the massive delinquencies of the United States that have plunged the Organization into chronic crisis and sapped its capacity to respond to emergencies and new needs.

The services provided by international organizations are, objectively, quite cheap—especially in comparison with the sums we spend on other dimensions of national security, such as the military, as backup in the event that diplomacy and the U.N. machinery fail. The annual U.S. assessments for peacekeeping worldwide are less than the police budget for the nation's largest city. Total American contributions, voluntary as well as obligatory, for all agencies of the U.N. system amount to $7 per capita (compared to some $1,000 per capita for the Defense Department).

Some object that U.N. peacekeeping costs have exploded over the past decade, from a U.S. share of $53 million in 1985 to $1.08 billion projected for 1995. But the end of the Cold War that sparked that increase, by freeing the U.N. to be an effective agent of conflict management, also allowed for far larger reductions in other U.S. security spending: Over the same decade, Pentagon budgets have fallen $34 billion. Increased reliance on U.N. collective security operations necessarily complements our defense savings. Moreover, U.N. costs are spread among all member states, and constitute a truly cost-effective bargain for all.

However, at a time of hard budget choices, many national politicians see U.N. contributions as an easy target. They are misguided. In asserting that national parliaments can unilaterally set their nations' assessment levels, claim offsets from assessed obligations for voluntary peacekeeping contributions, and impose policy conditions for payment of their agreed share of expenses, some Washington politicians jeopardize the institutional underpinnings of the world community. No multilateral organization—whether the U.N., the World Bank, or NATO—can long survive if member states play by such rules.

In ratifying the U.N. Charter, every member state assented in law to the financial obligations of U.N. membership. Virtually all of America's allies in the industrialized world fulfill those obligations to the United Nations—in full, on time, and without conditions. Until relatively recently, so did the United States. It must do so again.

America's leaders must recommit this nation to full and timely payment of assessed contributions to the U.N. and related organizations, including prompt retirement of arrears accumulated over the past decade. Financial unreliability leaves our institutions of common purpose vulnerable and inefficient. We must sustain—and, where needed, increase—our voluntary financial support of the U.N. system's many vital activities in the economic and social fields as well as peace and security. We should press for assessment scales that fairly reflect nations' relative capacity to pay, and explore other means, including minimal fees on international transactions of appropriate types, to ensure that funds to pay for the U.N. system budgets that member states approve do, in fact, materialize.

AMERICA'S STAKE IN THE UNITED NATIONS

Fifty years ago we, the people of the United States, joined in common purpose and shared commitment with the people of 50 other nations. The most catastrophic war in history had convinced nations that no country could any longer be safe and secure in isolation. From this realization was born the United Nations—the idea of a genuine world community and a framework for solving human problems that transcend national boundaries. Since then, technology and economics have transformed ''world community'' from a phrase to a fact, and if the World War II generation had not already established the U.N. system, today's would have to create it.

The founders of the United Nations were clairvoyant in many ways. The Charter anticipated decolonization; called for ''respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion''; and set up the institutional framework ''for the promotion of the economic and social advancement of all peoples.'' In meeting the Charter's challenges, we make for a more secure and prosperous world.

Through the U.N. system, many serious conflicts have been contained or concluded. Diseases have been controlled or eradicated, children immunized, refugees protected and fed. Nations have set standards on issues of common concern—ranging from human rights to environmental survival to radio frequencies. Collective action has also furthered particular U.S. government interests, such as averting a widening war in the Middle East into which Washington might otherwise be drawn. After half a century, the U.N. remains a unique investment yielding multiple dividends for Americans and others alike.

The U.N.'s mandate to preserve peace and security was long hobbled by the Cold War, whose end has allowed the institutions of global security to spring to life. The five permanent members of the Security Council now meet and function as a cohesive group, and what the Council has lost in rhetorical drama it has more than gained in forging common policies. Starting with the Reagan Administration's effort to marshal the Security Council to help bring an end to the Iran-Iraq war in 1988, every U.S. administration has turned to the U.N. for collective action to help maintain or restore peace. Common policy may not always result in success, but neither does unilateral policy—and, unlike unilateral intervention, it spreads costs and risks widely and may help avoid policy disasters.

Paradoxically, the end of the Cold War has also given rise in the U.S. to a resurgent isolationism, along with calls for unilateral, go-it-alone policies. Developments in many places that once would have stirred alarm are now viewed with indifference. When they do excite American political interest, the impulse is often to respond unilaterally in the conviction that only Washington can do

the job and do it right. Without a Soviet threat, some Americans imagine we can renounce ''foreign entanglements.'' Growing hostility to U.N. peacekeeping in some political circles reflects, in large measure, the shortsighted idea that America has little at stake in the maintenance of a peaceful world. In some quarters, resentment smolders at any hint of reciprocal obligations, but in a country founded on the rule of law, the notion that law should rule among nations ought not to be controversial.

The political impulse to go it alone surges at precisely the moment when nations have become deeply interconnected. The need for international teamwork has never been clearer. Goods, capital, news, entertainment, and ideas flow across national borders with astonishing speed. So do refugees, diseases, drugs, environmental degradation, terrorists, and currency crashes.

The institutions of the U.N. system are not perfect, but they remain our best tools for concerted international action. Just as Americans often seek to reform our own government, we must press for improvement of the U.N. system. Fragmented and of limited power, prone to political paralysis, bureaucratic torpor, and opaque accountability, the U.N. system requires reform—but not wrecking. Governments and citizens must press for changes that improve agencies' efficiency, enhance their responsiveness, and make them accountable to the world's publics they were created to serve. Our world institutions can only be strengthened with the informed engagement of national leaders, press, and the public at large.

The American people have not lost their commitment to the United Nations and to the rule of law. They reaffirm it consistently, whether in opinion surveys or UNICEF campaigns. Recognizing the public's sentiment, the foes of America's U.N. commitment—unilateralists, isolationists, or whatever—do not call openly for rejecting the U.N. as they had earlier rejected outright the League of Nations. But the systematic paring back of our commitment to international law and participation in institutions would have the same effect.

In this 50th anniversary year, America's leaders should rededicate the nation to the promise of a more peaceful and prosperous world contained in the U.N. Charter. In that spirit, the United Nations Association of the United States calls on the people and government of the United States, and those of all other U.N. member states, to join in strengthening the United Nations system for the 21st century.

In particular, we call for action in five areas, which will be the top policy priorities of UNA-USA as we enter the U.N.'s second half-century: Reliable financing of the United Nations system; strong and effective U.N. machinery to help keep the peace; promotion of broad-based and sustainable world economic growth; vigorous defense of human rights and protection of displaced populations; control, reduction, or elimination of highly destructive weaponry.

Mr. SIMON. And then the next is a letter, a policy statement by the United Nations Association of the United States of America, sent to me—I am sure to all Members of the Senate—by the former Deputy Secretary of State John Whitehead, who many of us had a chance to know and respect a great deal. He was the Deputy Secretary of State under Jim Baker. I ask unanimous consent that his fine statement be printed in the RECORD at this point.

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

UNITED NATIONS ASSOCIATION OF THE UNITED STATES OF AMERICA,
July 26, 1995.

Hon. PAUL SIMON,
Washington, DC.

DEAR SENATOR SIMON: I am writing to share with you a policy statement of the United Nations Association of the United States (UNA–USA) on the U.S. stake in the United Nations and U.N. financing, adopted in late June by UNA–USA's national convention on the occasion of the 50th anniversary of the signing of the United Nations Charter.

It is a serious yet succinct statement on an issue of considerable importance, with major implications for the Congress. We hope you will find it of interest. UNA–USA is eager to make a constructive contribution to the policy debate.

We should be pleased to share any reactions with UNA–USA's 25,000 members.

Sincerely,

JOHN C. WHITEHEAD,
Chairman of the Association.

Mr. SIMON. Mr. President, I am not offering an amendment on this because, real candidly, I know what the results would be. But I hope that in conference my colleagues will keep in mind that even the House, conservative as they are, put in $425 million for U.N. peacekeeping compared to our $250 million. I hope we will go to the House figure on this.

Mr. President, I yield the floor.

Mr. HOLLINGS. 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. HATFIELD. 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. HATFIELD. Mr. President, I ask unanimous consent to set aside the pending amendments, without any invasion or impingement upon the time agreements attendant to those amendments. I will offer an amendment and ask for 20 minutes, to be equally divided between Senators PELL, BUMPERS, and DORGAN, with the understanding that there will still be a vote at 9 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, would the Senator withhold?

Mr. HATFIELD. I am happy to withhold.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

Mr. FORD. Mr. President, I object.

The PRESIDING OFFICER. The clerk will continue to call the roll.

Mr. HATFIELD. 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. HATFIELD. Mr. President, I have sent an amendment to the desk. I withdraw any further request for unanimous-consent request on time. I am just going to utilize the void that exists here on the floor and take up what time I wish.

This amendment, Mr. President, if approved, I think would greatly improve our national security. My amendment, which is identical to a freestanding bill, the code of conduct on arms transfers, would place restrictions on arms transfers to nations which pose potential threats to the United States or to our allies.

I do not want to go into my long drawn-out speech reciting the very sorry record of this country in being the biggest arms peddler in the world today. Merchants of death is about what you should more accurately title our role in these matters of providing arms to Third World countries that cannot even develop a subsistence agriculture to feed their own people, and using up to 85 percent of their own national budgets to fill their lust for arms that we have infected them with.

At least I think we ought to begin to try to draw some kind of parameters around this come-one-come-all big arms sale today in the United States. Sending out our Secretary of Commerce to hawk arms at the Paris arms show, informing our diplomatic posts around the world that certainly they would help facilitate any arms transfers they can create in their country.

What we are offering here is this amendment to the Justice-State-Commerce appropriations bill on behalf of Senator PELL, Senator DORGAN, Senator BUMPERS, and myself.

I acknowledge that this is not the perfect vehicle for a discussion on the issue of arms transfers. After all, the yearly appropriations process is virtually the only time Congress provides its input on military aid to other countries, and at least some oversight exists in the programs funded by yearly appropriations.

My amendment is very easy to explain. It is very straightforward. The focus of the code of conduct on arms transfers is not what may be sold or transferred to another nation; but rather who should receive U.S. arms. The code of conduct says it is generally not in the interest of the United States to send arms to nations which are undemocratic, or abuse human rights, engage in illegal acts of war, or refuse to participate in the U.N. Registry of Arms. In other words, U.S.-built weapons should not be provided to nations which are a threat to our security.

We have had plenty of history where we have faced our own arms in a battle where they are aimed against our own people. I need not go into a long recitation of that.

Our world is awash in conventional weapons. This is conventional weapon focus. Even as we celebrate another

major victory in nuclear arms control, the permanent ratification of the Nuclear Non-Proliferation Treaty, and come closer to reaching agreement on a permanent ban on underground nuclear testing, we cannot ignore the death and destruction caused by conventional arms. Over 40 million people killed by conventional weapons since World War II. That is a pretty sizable part of the world's population.

More than anything else, we cannot ignore the last four times the United States sent significant numbers of troops to combat. Our soldiers faced adversaries which had received U.S. arms, training, or military assistance. I am talking about Panama, Iraq, Haiti, Somalia.

In other words, our arms transfer policy has backfired, particularly in those instances. It has created the boomerang effect where U.S.-provided weapons are used against our own military. Clearly, a new policy is needed.

The American public has been polled on the question of arms transfers and resoundingly—over 95 percent—said that no U.S. arms should go to dictators. Yet the United States continues to provide arms to nations which are not democratic.

The Clinton administration undertook to review the arms trade policy last year. That process took many months and the announcement was made in February of this year, 1995, that a new policy had been adopted. The truth is there was nothing new about the administration's policy. It represents no real departure from the arms transfer program our Nation has followed for the past 15 years.

We can go back and say this whole idea emanated out of post-World War II France when General de Gaulle needed to try to replenish the military arms arsenal of plans and found the best way to do it was to sell arms to other parts of the world to make money off of them to fill his own arms needs.

If we want to go with the President, President Kennedy in 1961 saw that as a policy and began to launch that policy in this country. So, consequently, we have had Democrat and Republican alike, no change or difference in party labels, that have followed this kind of arms peddling policy.

I think one important and dangerous difference today than previous has been thanks to the new policy that domestic economic considerations now have an important role to play in arms transfer decisions. Apparently we are willing to trade national security away for a few jobs. In other words, domestic production. That is foreign trade.

I think it is very interesting, we used to have a Department in the Defense Department, Department of Munitions. Now we call it the Department of International Defense Trade. Is that not a nice, sweet name for nothing but peddling arms?

This position is terribly out of step with the international movement to curb arm transfers. Last week I received a letter from Nobel laureate Dr. Oscar Arias, the former President of Costa Rica, who informed me that he is organizing a commission of Nobel laureates to develop an international code of conduct on arms transfers to be presented to the U.N. General Assembly.

Dr. Arias has already signed on four additional Nobel laureates in this effort—mind you within this very brief period of time, four more, which is based in part upon the code of conduct I am presenting here on behalf of my colleagues and myself.

In addition, I have heard from members of the European parliament, led by Glenys Kinnock. The efforts are underway to develop a comprehensive arms export control policy to be endorsed by the European Union.

Mr. Kinnock points out in his letter, this is Mr. Glenys Kinnock, that the United States and the nations of the European Union together will sell 80 percent of the world's weapons this year—80 percent.

Clearly, the code of conduct on arms transfers is not a unilateral move which will have only limited effect upon the global flow of arms. This is an international initiative which demands U.S. leadership.

Yet the administration refuses to make this pledge. Under Secretary of State Lynn Davis also testified before the Appropriations Committee on the matter of arms transfers. Secretary Davis told me that she thought that all components of the code of conduct on arms transfers—this bill or this amendment—democracy, human rights, transparency in arms transfers and reunification of illegal wars—were all acceptable to the administration, and indeed, are all shared goals.

Setting goals is not enough. Nondemocratic governments received 85 percent of the $55.2 billion of American weapons that were transferred to developing countries through sales or foreign aid during the past 4 years.

With a record like that, I could not disagree more with the administration's assertion that flexibility is the most important factor in arms transfer policy.

But I nonetheless have, in my amendment, provided a waiver authority, so that the President may come to Congress with a request to provide arms transfers to a nation who does not meet the criteria when it is in the interest of our own national security.

Should dictators be rewarded with weapons? Of course not. Early this past summer the Catholic Bishops of the United States approved unanimously a major statement calling upon the United States to undertake ''more serious efforts to control and radically reduce'' its role in the arms trade.

Many of you know that I have been a longtime critic of arms sales to the developing world. As I have indicated earlier, too many poorer nations—nations which have inadequate water and food supplies, inadequate education, and inadequate housing—have been caught up on regional arms races or been subjected to the gross military expenditures of despots. For years the United States has led the way in sales to these countries, although I would note that France slipped ahead of us this past year.

Earlier this year I held a hearing on the bill which is the basis for the amendment I offer today. A representative from Human Rights Watch provided testimony to the Appropriations Committee regarding the link between human rights and conventional weapons transfers. The representative reminded the committee that ''the fact of arms does not necessarily create abuse'' but went on to discuss how the tragic genocide in Rwanda a year ago was worsened by the enormous flow of weapons the year before the massacres. The influx of grenades and automatic weapons—all available cheaply—not only brought on the creation of militia who left tens of thousands of Rwandans dead. The Existence of these weapons also made U.N. efforts to protect refugees extremely difficult.

If we are to prevent future Rwandas and improve international respect for human rights and promote democracy, we need a code of conduct on arms transfers. The United States can and should exert its leadership by stating explicitly that it does not sell arms to dictators.

Mr. President, one closing remark. We have problems today in Bosnia and the Balkans. I stood on this floor 2½ years ago and warned about the flow of arms coming in both directions on the Danube. The Danube River was literally a river full of arms going into that very part of the world, from allies, from friends as well as from people of different kinds of relationships to the United States. These are now coming home to roost.

People say what else can we do but to send troops? What else can we do but to bomb? If we would choke off the supply of arms into that area of the world, we would be saving lives and we would be going to the source of the conflict and the source of the destruction and the source of the violence. But, unfortunately, arms have become too big an economic enterprise in our Western World, particularly in the United States. So it is much easier to call out the troops and send them into trouble spots of the world than to choke off arms to the world. We are now, as I say, one of the largest peddlers of such arms in all parts of the world.

Mr. President, I made my pitch. I want to say I appreciate being able to inject this at this moment. If the time is such that Senator BUMPERS and other cosponsors of this may have a moment to speak, I will hold it in suspension. I am ready to close off and call for a vote. I recognize the ultimate defeat, but nevertheless I feel constrained to make this pitch at this time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, is the Senator from Oregon waiting now to call for a vote on his amendment or has he yielded the floor?

Mr. HATFIELD. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, tonight we are going to be voting on some amendments that are very significant, and I want to take an opportunity to express some views concerning those amendments. One is going to be offered to refund to its 1995 fiscal year level—I believe it is $415 million—the Legal Services Corporation.

This is a place we should draw the line, go back. In fact, this is one area where the Senate came out with a better proposal than the House came out with. It is my understanding the House suggested reducing the funding to $278 million. The Senate would reduce it down to $210 million and have that block granted out to the States.

I really believe the Legal Services Corporation was conceived as a part of the Great Society program, understandably, perhaps, at the time, to offer legal services to the poor. However, over a period of years it has turned into an agency that is trying to reshape the political and legal and social fabric of America. In fiscal year 1995, the taxpayers spent $415 million to operate the Legal Services Corporation. However, the cost, the $415 million, is only a very small part of it when you consider the extensive class action suits and frivolous litigation that has followed.

There are so many examples that have been given here on the floor, and that I have given myself, concerning the activities of the LSC. The negative effects of the LSC's attempts to reorder society permeate our culture, from the business community to government to homes to churches. Perhaps the most troubling is the role of legal aid in challenging parental involvement statutes, so-called children's rights advocates such as Mrs. Clinton, who served as the chairperson for the LSC's board that challenged parental consent laws in several States. The income level of the litigants was often ignored. It really cannot be used as an argument that it was to provide legal services for the poor.

Parents are attacked in their efforts in keeping drugs out of their homes. In Idaho, the LSC protested when parents voluntarily invited police into their homes to check for drugs. Legal aid asserted privacy rights of the violators, who were teenagers who were on drugs at the time.

We have had Legal Services also involved in illegal immigration. The LSC supported organizations that sued California for its efforts to ascertain residents' immigration status for emergency Medicaid services. Legal Services promised to take this one to the Supreme Court.

Legal Services also contributes to our public housing woes. The LSC tried to prevent the local housing authority from evicting a woman who was dealing in drugs out of her apartment. Despite overwhelming evidence of constant drug-related activity, the LSC lawyers vigorously opposed her eviction on the grounds that she was not aware of what was going on.

The examples go on and on and on. I encourage my colleagues to seriously consider defeating the amendment that will be offered tonight.

There is another one coming up I heard articulated on this floor a moment ago by the Senator from Texas, Senator GRAMM. Although he was talking about his amendment, the Shelby–Inhofe amendment that will be offered later on is an amendment to put work back into our prison system. We have proposed in this amendment that we require work, 48 hours per week, along with education pursuits so individuals can go out when they are once released and work themselves back into society.

I know a lot of people are saying these are not country clubs; our prison system already is punishing criminals. I suggest that, since the 1960's, we have grown in this body to be more concerned about the violators than we have the victims.

The other day, I ran into a notice that was posted in one of the Massachusetts correctional facilities where it stated:

> A third softball field will be made in the west field in order to allow more inmates to play softball. The horseshoe pits will be temporarily relocated near the golf course. The boccie [or whatever that is called] area will be relocated at the site of the new gym. The soccer field will be relocated to the east field behind the softball field.

It goes on to say, ''We hope that our clients''—they do not call them inmates, do not call them prisoners—''will not be inconvenienced too much.''

I think it is time. If there is one mandate that came with the elections of 1994, it was to start to change our prison system, to quit spending the exorbitant amounts, and to get involved in punishment as a deterrent to crime.

I was very proud when we passed our bill through the Senate, after the disaster occurred in the State of Oklahoma, that calls for real habeas reform and, for the first time, in my opinion, reverses the direction of our attitude in terms of crime and punishment.

I yield the floor.

Mr. BIDEN. Mr. President, I believe that I have 2 hours allotted to my amendment that will be equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. In fairness to the Senate, I was supposed to be here at 7 o'clock to start that amendment. So I would suggest that—I have checked this with at least the staff of the minority—the time for my amendment be cut to an hour and a half equally divided so that we are finished by 9 o'clock with this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Mr. President, I withhold the request. I will just begin my statement, and then we can work out the time as we go along.

Before Senator INHOFE leaves the floor, I am just curious. That prison notice that he read, I would like to ask my colleague, was that a Federal prison or State prison?

Mr. INHOFE. It is a State prison. However, our amendment addresses not just Federal prisons but prisons that receive Federal funds.

Mr. BIDEN. I thank the Senator. I was just curious. I would point out to him that in the Federal prison system, we stopped fooling around—unlike the State of Oklahoma or the State of Delaware and other States—we stopped fooling around like many who served in the State legislature fool around. We passed an amendment that the Senator from Delaware offered in the late 1970's and early 1980's. It is called ''the same time for the same crime.'' You get convicted in the Federal court, you go to jail for all the time, and I am just sorry the State legislatures are not as we have been and as the Federal Government has been for a long time.

Mr. INHOFE. If I could respond, we have been fooling around in some States. That is what this is all about, to try to get some uniformity. And any time you have a murderer like Roger Dale Stafford, who sat on death row for 15 years after murdering nine Oklahomans in cold blood, it is time that we changed our attitude toward crime and punishment in this country.

I would suggest—and I think perhaps the Senator from Delaware would agree—that when someone is contemplating a crime, and if he thinks the downside is going to be sitting on death row watching TV in an air-conditioned cell for 17 years, that is not much of a deterrent. And that is what I would like to change.

Mr. BIDEN. Mr. President, I agree with the Senator. Maybe he could make that very compelling speech to Mr. GINGRICH so we can actually pass the terrorism bill instead of him holding the terrorism bill up that we—the Senator from Oklahoma and I—worked so hard on. The House has not passed it yet. It is a great emergency.

I have not heard any speeches on the floor from my friends who were decrying failure to move quickly on the terrorism bill when we had it. I have not heard any speeches about why the Republican House of Representatives is holding it hostage. God only knows. Maybe it has to do with a line-item veto that they used to be for as well in the House. I am not sure. But I think we would all serve the Nation well if we constantly spoke out and asked Mr. GINGRICH to let the terrorism bill go instead of turning that into a habeas corpus reform. I would hate to have that sit over there for the remainder of the year.

Mr. INHOFE. I will respond that I have talked to Mr. GINGRICH, and he is

very anxious to get to that. However, I think we are all aware that we have some appropriations bills to get out of the way. And, in the order of things, I am sure it will be expedited.

Mr. BIDEN. I am happy to hear that. But he had the bill for months and months before we started the appropriations process.

I do not stand for that reason. I rise to speak to an amendment that I have. Let me very briefly describe it before I send it to up to the desk.

Mr. President, the crime bill—which we passed, and is now the crime law—was in many ways authorized in this appropriations bill. My good friend from Texas, Senator GRAMM, for whom I have great respect and I have never underestimated his abilities, was very effectively able to, in the appropriations process, essentially change the authorization process by dealing with a number of the provisions in the crime laws that are in place and functioning.

What this amendment essentially attempts to do is go back and undo—whether the Senate will agree is a different story—essentially what was done in the subcommittee on appropriations. I am not speaking to each part of the amendment, but I will give you the major points.

One, it reinstates money for the drug courts. The Appropriations Committee eliminated the funding for drug courts, something that we passed a year ago into law and is now law.

Second, it eliminates money for drug treatment in prisons. I might note for those who might think that is sort of a silly, soft-headed notion that the States in the United States of America in the year 1993, after releasing prisoners from the jail—prisoners who had served their time in the State penitentiary—as they walked out the gate from a State penitentiary with the clothes they wore in and a bus ticket and five bucks in their pocket, 200,000 of them in one year walked out of that penitentiary drug addicted, drug addicted, addicted to drugs after having served their time as they walked through the portal.

So what all the evidence shows is that drug treatment in prisons is as effective as drug treatment out of prison, and it makes a big difference because you have 154 crimes a year committed by a drug-addicted person. If you have 200,000 people, after having walked out of jail, still drug addicted as they walk out the gate, we have a problem. But unfortunately, the meager amount of money that was in the crime bill, in the crime trust fund, which should have been spent and would have been spent in this upcoming year, that also was zeroed out.

In addition, there was in the crime law a provision that a vast majority of my colleagues, Democrats and Republicans, supported when we debated the crime bill 2 years ago, and that was rural drug enforcement grants. I have spent a lot of time with the Presiding Officer, my colleague from Utah. And, as a consequence, I do not pretend to know the State of Utah, but I have become much more familiar with it. I need not tell the Presiding Officer that drug trafficking in methamphetamine with the gangs from Los Angeles moving into rural Utah, drive-by shootings occurring in Salt Lake City that never occurred before, the influx into the large intermountain States of drug deals, drug cartels, and drug organizations primarily dealing in synthetic drugs and methamphetamine—all of them have put an incredible burden on all of those things and have put an incredible burden on the rural law enforcement agencies in the small towns in the State of Utah, in New Hampshire and in Delaware.

I mentioned those States because the three Senators representing those States are on the floor. We represent States where the vast majority of their cities are very small. The largest city in the State of Delaware is 85,000 people.

Now, I realize Utah is larger than that, and I think Manchester, NH, is larger than that. But the point is, we do not have that many big metropolises. We have tens, scores of small, little towns of one sheriff or one police officer or two or three. And what every rural law enforcement agency said to us when we were writing this bill was that we need help, particularly we need help in the area of dealing with drug enforcement problems, because the problems that are visited upon those small towns are not just the kids selling marijuana in the schoolyard; the real problems that have occurred in the last 10 years is these drug organizations move into those small towns, or they move into the outskirts of those small towns that in effect are incapable of being dealt with across State borders by small, rural law enforcement agencies.

Unfortunately, the subcommittee on appropriations saw fit to zero out that function as well. I attempt in this amendment to restore that money.

In addition, I also restore another thing that was cut totally, and that is the Law Enforcement Family Support Act.

Now, most people do not know what that is, but a number of us have participated, and I expect my colleagues on the floor tonight will participate in the ceremonies that take place at the law enforcement memorial once a year, where almost every year the President speaks, whether it be President Bush or President Clinton, and where we deal with and hail the slain officers and the families of officers slain in that calendar year who come to Washington. And they come to Washington to be recognized and to recognize the contributions of their spouses, mothers or fathers, brothers or sisters.

A very important part of that, as those of you who have attended may know, is that when that ceremony is over out in The Mall, there are 2 days set up of counseling for the families, the families that come from all across America, that come from Idaho, Utah, Montana, Maine, Florida.

You speak to the families of those slain officers, and they will tell you this counseling that they get as to how to deal with this and being able to deal with other families who have been through it is one of the most helpful things that happens to them. It matters to them.

What this $1.2 million we cut does is to provide that very counseling. So I hope when my colleagues vote on this amendment, they will remember that next year when they are invited down to the law enforcement memorial ceremony and they see and, God forbid, it will occur we know, another 25, 50, 100 families down there where officers have been slain in the calendar year doing their duty, we will realize that in failing to put this money back in the thing that those families valued the most will in fact not be available to them because they literally leave there, go to a luncheon and get on buses to take advantage of these counseling services. So I attempt to restore the $1.2 million in the Law Enforcement Family Support Act that was taken out by the committee.

It also restores—no new money, no change in money—the State option that is presently available under the crime law, under the prison grant portion, to allow States to use their prison dollars to build boot camps if they choose to do it. The argument that we heard on the floor, Democrats and Republicans, for the past year is that we want to allow more local control. We do not want the Federal Government telling people what they should do.

We passed, with my support and the overwhelming support of the people in this body on both sides of the aisle, the mandate legislation saying we should not be mandating to the States what they must do without sending the money. But implicit in that is we have also said as a matter of policy that we do not know federally, we have acknowledged we do not know federally as much about the specific needs of the States and the localities as the States and localities know.

So I find it curious that my colleagues, at least the majority on the appropriations subcommittee, decided to tell the States they do not have the option to build boot camps. I do not quite understand that. Everybody stood on this floor and talked about how valuable and important boot camps are. But the language that I have in this amendment—and I will go back to this in a moment—restores the State option. No requirement, no State has to build a single, solitary boot camp. They can all go build maximum security prisons. They can do whatever they want to do with the money as it relates to prisons. But they should have the option of being able to build a boot camp, as my State has decided. And there are several other changes that this amendment contains for the

purpose of making sure that we in effect put the crime law back together.

This amendment is supported, I might add, by I believe every single major police organization in the country. The legislation relating to law enforcement and family support is specifically supported by the National Association of Police Organizations.

As I said, everyone may remember a year and a half ago there were a rash of police suicides across the country including what personal toll was taken on America's law enforcement officers and their families as a consequence of them being shot or wounded or killed. This amendment on the Family Support Act helps deal with that.

So let me speak a little more specifically to each of the general areas that I try to restore. Again, $100 million for drug courts, $20 million—and by the way, we authorized $150 million.

I should point out one other thing. We are dealing with moneys from a trust fund. These are not any new taxes. What we all decided to do under the leadership of Senator GRAMM of Texas and Senator BYRD of West Virginia, when the crime law was being debated a year and a half ago, was to say, look, why not make sure this is not funny money. Why not make sure we can pay for what we say we want to do. I wholeheartedly agreed.

And under the leadership of Senator BYRD, with the strong concurrence of Senator GRAMM of Texas—and quite frankly, with the ingenuity of John Hilley, who was then the administrative assistant for Senator MITCHELL—they came up with a unique idea. Never before, to the best of my knowledge, did the Senate ever set up a trust fund for law enforcement. And the way that was funded, the Senator from Texas [Mr. GRAMM], insisted that the commitment that we made to reduce the Federal work force by 272,000 people over a 5-year period be written into the law. It had not been legislated before.

And so, as a part of the crime bill we legislated, the President would have to reduce the present work force by 272,000 people. OMB calculated how much the revenue that was now being paid out of the Treasury to pay those folks' salaries would be. And we agreed that as that attrition took place—and we have cut now by 170,000 some Federal employees. We have done that. That is real. That has been done. Their paychecks would go into this trust fund and that from the trust fund the funding for the crime bill would come.

Now, someone could have argued legitimately that when I say, ''No new taxes,'' they say, ''BIDEN, you could have taken those savings from the reduction of the Federal work force and you could have lowered the deficit or lowered taxes.'' That is true. We could have done that. But the majority of us—and I for one strongly felt it was a higher priority to fight crime in America and give localities the resources to do that.

So I want to make it clear what we are talking about here is trust fund moneys. So what I do in this amendment is I reinstate $100 million of the $150 million for drug courts, $27 million for drug treatment in prison, $10 million for rural drug enforcement, and $1.2 million for the Law Enforcement Family Support Act, and then change other language—no reallocation of funds for making sure that States have the option dealing with being able to use prison money to build boot camps.

Now, let my speak to what I think the single most important piece of this amendment is, first, in more detail, and that is the drug courts. The Federal Government has long focused on the fight against illegal drugs, but few of its efforts have shown the promise already demonstrated by drug courts. The key to the drug court program is to punish and control offenders in the most efficient way possible.

In fact, it is precisely because of the success of the drug courts seen in model States, that I worked with the Attorney General to include the Federal support for drug courts in the 1994 crime bill signed into law a year ago.

Drug courts represent an innovation in how our criminal justice system deals with low-level, first-time drug offenders. Throughout the Nation nonviolent drug offenders are simply released back into society with no punishment, no treatment, no supervision. Nationwide, the most recent estimates are that 600,000 such offenders are on the streets; 600,000 people convicted of abusing drugs and committing crimes sent back out into the streets with no reason not to return to more drugs and more crime and with no punishment, no treatment, and no supervision—1.4 million of these nonviolent drug offenders are convicted every year, and 600,000 of them get absolutely no treatment, no supervision, no punishment.

Now, let me tell you how the drug courts work. The drug courts work so that what happens is the States, with the money provided by the Federal Government as seed money, this $100 million, set up drug courts where they take these first-time, nonviolent offenders into the court. They adjudicate their cases very rapidly, usually within 30 days. They then sentence that offender to something, including all of the following:

First, if they are in school they must stay in school.

Second, if they have a job they must keep a job.

Third, they must be subject to random drug testing.

Fourth, they actually must report two times a week to a probation officer and a counselor.

Fifth, they are required to enlist in drug treatment and stay in drug treatment.

If they violate any of those things, they go straight to jail. They do not pass go—straight to jail. In Dade County, FL, which, unfortunately, probably has more experience with drug trafficking and illegal drug use than any other county in America, it was put into effect several years ago.

The rearrest rate prior to the institution of drug courts was about 34 percent. Thirty-four percent of all the people who were convicted the first time of a nonviolent drug offense ended up rearrested and reconvicted and back before the courts. When the drug court program was put in place—and it has been there now about 5 years, I believe, maybe a little longer—the rearrest rate dropped to around 3 percent—3 percent.

I can say to the Presiding Officer and others who are listening that in my State, the State of Delaware, a Republican attorney general named Richard Gebelein became a superior court judge and set up a drug court system like this—strict, strict, strict rules for nonviolent offenders once they are convicted, requirements of treatment, requirements of public service, requirements of random drug testing, requirements relating to keeping a job, very strict requirements. They were literally required to sign a contract. And when they violate any of those provisions, they go to jail. It is amazing what an incentive it is. It is amazing what an incentive it is.

In my State they are going to be going to boot camps because boot camps cost 40 percent less to run than the prison system does, than building bricks and mortar. So they work. I say to my friend from Utah and others who are here, they work. And, unfortunately, I know in the interest of trying to find money for other purposes in the bill, they were zeroed out. So what I do in this legislation is I restore $100 million of the $140 million that has been authorized.

Again, drug courts combine a carrot of drug treatment and the helping hand with a stick of mandatory drug testing and the gavel of a judge that says you go back to prison if, in fact, you violate any of the provisions.

For example, as of about 1 month ago, the Delaware drug court had worked on 481 offenders in my small State in what it calls its track one program. That is, 143 of these 481 people had completed the program and were on their way to being productive citizens; 80 were, to use the Delaware judge's phrase, ''terminated.'' In other words, they were sent back to jail. And the remaining 258 are presently working their way through the program.

But an interesting thing, I say to the Presiding Officer. Guess what? Of those 481 people who were in the system, committing an average of 154 crimes a year, the crime rate has gone down precipitously among those people. And those who could not stay in the system were, to use the phrase of the former attorney general—now judge—Gebelein, they were terminated. They were sent to jail.

Absent the drug court system around the country, what happens now is they never get any treatment, they never get any punishment, they never get sent to jail; 600,000 of them a year are out there walking around after having been convicted.

So I say to my friends, as they look at this, ask their judges in their home

State, ask their probation officers, ask their police officers, ask their prison officials, and I can tell you, they will find almost without exception that the drug court innovation is viewed as one of the best hopes law enforcement has to deal with what is ultimately the problem. And to paraphrase a phrase used in a Presidential campaign last time around, ''It's drugs, stupid. It's drugs.'' Crime is drugs. ''It's drugs, stupid. It's drugs.''

Now, on the point of drug treatment in prisons, I will again merely make the point that it works. Last week the Department of Health and Human Services released preliminary estimates from the 1994 national household survey on drug abuse. And its report is alarming.

The survey found that among youth age 12 to 17, the rate of illicit drug use increased between 1993 and 1994 from 6.6 percent to 9.5 percent. In the past year, nearly 10 percent of our youth were using illicit drugs. Marijuana use among 12- to 17-year-olds has nearly doubled from 1992 to 1994.

Perhaps even more frightening than the upsurge in use trends is the increase in the perceived availability of illicit drugs, substances in all age groups. The percentage of youth reporting that marijuana was easy to obtain increased by over 10 percent. Fifty-nine percent of the young people in America said marijuana is easy to obtain and they know how to get it. There was an increase in the perceived availability of LSD, PCP's, and heroin for all age groups.

The percentage of people age 35 and older who claim that cocaine was easily obtainable increased from 36 to 41 percent. Clearly, despite the progress we made in drug abuse prevention and treatment and law enforcement, there is still a great deal more to be done. And things are moving the wrong way.

Given the need for more and greater efforts in the war on drugs and given their call for a strong stand on the drug issue, I cannot understand why my colleagues in this body employ the decision to abandon the key antidrug initiative in the 1994 crime law. Specifically, I would like to mention the three programs they have eliminated. One I have spoke to—the drug courts; second is drug treatment in State prisons; and the third is rural drug enforcement grants. I do not quite understand why, as we talk about drugs, we in fact find ourselves with legislation that cuts our effort in fighting drugs.

Last year, the 1994 crime law took a strong stand against drug abuse in rural areas, against drug abuse throughout the court system and in the prison system. But this bill zeros out those functions.

So it always surprises me, when we talk about being tough on drugs, why more of our colleagues do not go home and talk to their police, why they do not talk to their prison officials, why they do not talk to the tough guys, the law-and-order types, who will tell them. I am telling you they will tell you that in fact they want these programs.

What my amendment does, it takes funds from an open-ended, unfunded block grant to make sure that these dollars are targeted to the antidrug measures I mentioned. In other words, the amendment allocates funds directly—what we do is we take $117 million in the bill—we do not look for any money anywhere else —and apply it to the three programs I mentioned, and here is how we do it. We increase the fee charges to obtain green cards. A few years back, when the non-U.S. citizen was in the United States and applied for and was authorized to obtain a green card, that person would have had to return to their native country and then reenter the United States legally.

In 1994, we passed a law that allowed the person in those circumstances to remain in the United States and obtain the green card if certain requirements were satisfied. That person paid an additional fee of a few hundred dollars. The rationale behind the additional fee is that, in paying the fee, the person did not have to leave the United States, return to their home country, reenter the United States, and they saved a round-trip fare ticket. In addition, there is $21.2 million in offsets from the reduction in the State prison grants.

I note that the House funded the administration's request of $500 million. The bill before us provides $750 million for prisons. We all know that whatever comes out of conference is not going to be $750 million. So we take $21 million—a mere $21 million—out of the additional $250 million for State prisons that the Senate subcommittee put in. And should it be adopted, the bill would still provide more than $725 million for prison grants. And so when my colleagues legitimately ask, OK, BIDEN, let us assume the three programs that you and the cops talk about all the time are as good as you say, and that is drug courts, the drug prison money, and drug treatment money in prisons and rural drug enforcement—what I did was I found the $117 million to offset that from the places I just stated.

I see my friend from Missouri. I have more to say. How much time remains for the Senator from Delaware?

The PRESIDING OFFICER (Mr. THOMAS). There is no time, since the amendment has not been offered.

Mr. BIDEN. I did not mean to do that to the body. I was trying to save time.

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

Mr. BIDEN. Sure.

Mr. GREGG. Will the Senator from Delaware be inclined to have the time that has been consumed applied to the hour and then have the time begin to run?

Mr. BIDEN. Yes, I would. It is not my intention, by not sending up the amendment, to be able to elongate the time that would have otherwise been allotted to the Senator from Delaware. I will do that. The reason why I have not sent the amendment to the desk is there are a few changes several of my Republican colleagues want, in the form they want it in to be able to send it up. That is the reason.

I see my colleague from Missouri on the floor. I am told he would like to speak to the drug court issue. If that is the case, I ask the permission of my friend from New Hampshire whether I could ask unanimous consent to yield to him 5 minutes of whatever time I have, if we reach an agreement on that time?

Mr. GREGG. Would it be possible now to propound a unanimous-consent agreement that the time for debate on the Senator's amendment would be limited to not beyond 9 o'clock, that the time consumed up until now would be charged to your time, that the 5 minutes to be used by the Senator from Missouri be charged to our time, and that the remainder of the time be divided equally?

Mr. BIDEN. Yes, I believe so. I would like to ask, how much time would I have left under such an agreement?

The PRESIDING OFFICER. The original informal agreement was an hour and a half, from 7:30 until 9, equally divided. The Senator has since used 35 minutes out of his 45-minute allocation.

Mr. BIDEN. I am happy to accede to the suggestion of the Senator from New Hampshire, if he wishes, that the time on this amendment extend until 9 o'clock and that the Senator from Delaware would have approximately 12 minutes remaining?

Mr. GREGG. I have just been advised that if that is the case, we end up locking in the offsets here, which is something we would rather not do. Why do we not continue to proceed.

Mr. BIDEN. That is what I thought. On that score, I will be delighted to yield to the Senator from Missouri at this time. Then I will seek recognition when he finishes.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I am not going to take up a great deal of time. There are a number of things to work out on this amendment. I could not pass up this opportunity to come and tell this body that the concept of a drug court has been in place in Kansas City, MO, for about 2 years, and it is too early to say that this is the real solution. But the results, to date, are very spectacular.

In Kansas City, drug offenses were clogging up the court system. We did not have the court resources available to provide full trials. We were getting citations. We did not have the prison space for the minor offenders. The drug court has been used with, apparently, a great deal of success for the nonviolent minor drug offenders in Kansas City.

As the Senator from Delaware has already described, this is a program in which they go before a judge—and I

talked at length with a judge—Judge Mason—whom I had the pleasure of appointing when I was Governor of Missouri, and the county prosecuting attorney, Clara McCaskle, who said this was one of the best ideas they had seen for trying to get people early on in their careers, after they started taking drugs, off of drugs and off of a life of crime.

There have been about 200 people in the program in 2 years, only 10 have been rearrested. Some of them failed. The nice thing about a drug court is that if you fail the program, that is it, you go into jail. There is no question about it. But 60 people have completed the program. Only one has been rearrested. That is a significantly higher success rate than most of the other programs I have seen for dealing with the minor drug-related offenders.

This, obviously, applies only to nonviolent offenders, who have not used a weapon in their crime. We think this kind of tough supervision by a concerned judge—and it requires a judge who is willing to devote his or her time to these cases, to give the drug offender the attention and discipline needed to get them off of the drug habit and get them out of a life of crime, offers a great degree of promise.

I had asked that the drug court at least be made a permissible use under the block grant program. Frankly, I think making it a permissible use is not enough. Based on what we have seen, I would like to see the drug court procedure in the law in some form.

I look forward to working with my colleague from Delaware and my colleague from New Hampshire to see if we cannot include provisions for drug courts. I can tell you, from the heartland where we have a drug problem, the drug courts seem to be one of the most promising ways of dealing with the problem. Anything in this area that holds out a chance of working I think should be given a chance.

At the very least, the drug court program should be made an option used under the block grant program. I would like to see us go further. I would like to see us say that drug grant programs should be entitled to a certain percentage of the block grants.

I look forward to working with the managers on both sides.

Mr. President, I reserve the balance of my time. I yield the floor.

Mr. BIDEN. Mr. President, in keeping with our informality here, let me finish up. I thank my friend from Missouri for speaking to the efficacy of drug courts.

Let me speak to two other pieces of this amendment. One is the rural drug enforcement grants. The latest reports from rural America tell a bitter story of violent crime, murder, rape, aggravated assault. It is rising faster in rural America. Most of our colleagues from urban States do not realize this. It is rising faster in rural America than in urban America.

From 1992 to 1993 alone, the violent crime rate in rural areas increased 7.4 percent; violent crime among juveniles in rural areas—violent crime now—rose 15.2 percent in rural areas.

Drug trafficking and addiction are also skyrocketing in America's rural States, especially among our young people. Drug abuse violations have increased by nearly 30 percent among young people under the age of 18 in recent years.

At the same time, the number of law enforcement employees per 1,000 inhabitants in rural areas has not changed, leaving already understaffed law enforcement teams in rural America to fight devastatingly high increases in serious offenses.

In 1993, the most recent year that data is available, 12 percent of our population or almost 32 million people were served by rural law enforcement agencies.

That is 32 million people who have watched their communities become frighteningly dangerous. That is 12 percent of the population that has witnessed their children becoming increasingly vulnerable to becoming victims of violent crime or becoming involved in drugs, crime and violence.

Rural drug enforcement grants have, we found, been the best way to target assistance to rural area law enforcement agencies. I might point out that Senator HATCH was one of the leaders in making sure this provision was in the crime bill.

These grants, which place a special emphasis on drug enforcement over the 32 million people living in rural areas, give the protection they need and deserve. These dollars can be used for the same purposes State and local officials use their Byrne grant money; specifically, funding will support the highly successful multijurisdictional State, local, and Federal drug enforcement task forces.

These joint efforts have proven that they work. They have a proven track record of reducing drug trafficking in rural America.

Put this in commonsense terms. How can a rural sheriff, a rural chief of police in a town of 800 or 1,000 or 1,500 or 5,000 people, with one officer or maybe as many as three or four, how can they possibly deal with the sophisticated drug operations that come into their areas? They cannot do it.

In the good old days when I was chairman of the Judiciary Committee, many of my colleagues, Republican as well as Democrats, would come to me and say, ''Joe, can you help me get an extra DEA agent in Montana? Can you help me get an extra DEA agent or two of them in Idaho or North Dakota, South Dakota, Vermont, Maine?'' Small States, but rural States. They are big geographically.

The reason they needed them is their local sheriffs, their local police officer coming to them and saying, ''We need some expert help and advice.'' We even went so far as to allow for the providing of training for local law enforcement officers from rural and small police departments down at the FBI training facility. They need the expertise.

These are brave women and men who are outmanned, outgunned and outsmarted because they are dealing with something that goes well beyond the town limits or the county limits that they have the jurisdiction over.

Ten rural States are eligible for these grants statewide. These States include Alaska, Arkansas, Arizona, Colorado, Idaho, Iowa, Kansas, Maine, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Vermont, and Wyoming.

I will note that Delaware is not on that list. These States that I mention, these 19 rural States are eligible for statewide grants, although all the remaining States, the remaining 31 States could benefit in their rural areas. Rural areas of all other States will receive funds, as well. These grants must be removed from the unfocused block grant and funded separately. If they are to remain in the block grant scheme, they will have to compete with a great many programs for limited funds.

Let me ask all who are not in the 19 States, what do you think of the possibility your rural law enforcement officer is going to get this money? What do you think the possibility is that your Governor will send it your way? Do you think maybe it will go where the population centers are?

I bet it surprises even some of my colleagues here on the floor to hear me say that violent crime is rising faster in the rural parts of your State than it is in the urban parts of your State.

In the block grant, I very much doubt and I believe you would be hard pressed to convince me or yourself that this money which was specifically earmarked for rural areas and States that are rural in nature, they need the help. So I would like to point out that rural areas often come up last when it comes to the so-called funding fight in each State. This fact has not escaped my colleagues in previous years.

The need for special targets of anticrime funds to rural areas was also expressed by my colleague, Senator HATCH, on February 10, 1994, while he was speaking in support of the Biden-Hatch rural crime amendment, when he said:

> We need to get more officers to rural areas where the violent crime problem is increasing at a greater rate . . . drugs, crime, and violence are national problems facing both urban and rural America. Unfortunately, the crime problems faced in rural America have been overlooked by Federal agencies in Washington. They have focused on the crime in urban areas. Yet the problems of rural states need greater Federal attention as well . . . if there is a place where additional Federal expenditures is warranted, it is to fight crime and violence in rural states.

That was what my colleague said February 10, 1994. In the 102d Congress, Senators Adams, BAUCUS, BRYAN, BUMPERS, CONRAD, DASCHLE, Fowler, HARKIN, HEFLIN, LEAHY, PRYOR all cosponsored the Rural Crime and Drug

Control Act which I authored and passed in 1991.

I believe areas experiencing growth in violent crime and drugs are areas to which enforcement funds should be targeted, especially when those areas are already underfunded and their enforcement efforts such as in rural areas are undermanned. That is why I am asking the rural drug enforcement grants receive direct funding, so they can guarantee rural areas their fair share of help from the Federal Government in ridding their communities of drugs and crime related to drugs.

Again, I daresay if you go ask your rural law enforcement people what they would rather have, what chance they think they have of getting any adequate funding out of this when it goes into one big pot and it goes into the State legislature and is distributed by the Governor, I wonder if they think they are going to get a fair share. I predict to you they will not.

If the Dole block grant is adopted, the block grant amendment introduced by Senator DOLE gives targeted aid to urban areas. The formula for the block grants is targeted to high-crime areas, weighs population in its equation for determining crime rates, and the formula guarantees that urban areas will receive targeted funds while assuming that most rural areas will not receive such aid.

In 1993, the most recent year for which data is available, the murder rate grew 3.4 percent in rural America and it decreased 2.8 percent in the Nation's largest cities. Similarly, the violent crime rate rose 1.4 percent in rural areas, while it decreased 3.4 percent in the largest cities.

But the Dole block grant proposal that is in this bill targets aid to the most populous areas. It clearly does not target funds to those areas most in need, rural America. While violent crime rates, including homicide, forcible rape and assault, are declining in urban areas, they are clearly on the rise in rural America. And rural America does not receive the funds under this block grant proposal. Rural areas have historically had the hardest time producing funds for law enforcement, and it seems to me we should not allow these areas to continue to receive less attention and less antidrug-related money than urban areas just because they are less populous.

This is just an example of the creative budget games that are going on. By providing open-ended block grant funds which may be used for this or any other program, while at the same time significantly cutting the amount of total funding available, my friends are limiting programs such as rural drug enforcement block grants without doing so directly because of where they will have to compete.

The last point I wish to speak to at this moment is the boot camps.

Our ability to reduce crime in a manner depends directly upon our ability to target offenders with the appropriate time of sentence.

This means, of course, we have to identify violent offenders and make sure they go to prison. But it also means we must separate out the nonviolent offenders who can be diverted, potentially, from a career of crime through an intensive cost-effective programs such as military-style boot camps.

That is exactly what we did in 1994 with the Biden crime law. We encouraged the States to identify nonviolent offenders and offer them alternative, more cost-effective programs while we, in fact, kept them incarcerated. We provide $9.7 billion to States to build and operate prisons and we gave them the option to use a portion of that money for boot camps.

This appropriations bill would completely eliminate State flexibility to use boot camps for nonviolent offenders in order to free up conventional prison cells for violent offenders. My amendment would restore the State option, the State flexibility to use boot camps for nonviolent offenders, to use their Federal prison money for boot camps.

Let me first tell my colleagues a little bit about boot camps so they can be clear what we are talking about. Boot camps provide a regimented program of work and exercise for young, nonviolent offenders. And they have shown marked success with young offenders who learn discipline and respect for law and authority.

They are put behind barbed wire. They are locked in. They are essentially put in Quonset huts. Some argue it is inhumane. I argue if it is good enough for a marine to sleep in a Quonset hut, it did not hurt him very much, it sure in heck should not be too tough to put a convicted person, a nonviolent person in such a circumstance.

At the time we did this in the Biden crime bill just about everybody stood up and supported boot camps. It was one of the few things everybody agreed on. Now I am a little concerned. I do not know what has happened that we would go contrary to the trend of the last year, which is to give States more flexibility. I have heard no one argue these boot camps are not worthwhile. I have heard no one argue that States should not be allowed to have them. And I have heard no one argue that States should not have flexibility. So, maybe it was an oversight that States were explicitly prevented from using their prison money to build boot camps. I do not know. But the bottom line is quite simple. Boot camps work to do one very important thing—I suspect many others, but one. That is, I will end where I started.

Two years ago the States convicted—not in Federal court, in State court—several hundred thousand violent offenders were convicted in the State court system. Mr. President, 30,000 convicted, violent offenders never spent a day in jail—30,000, in the States; 30,000 convicted State felons, violent felons, never served a day in jail. The reason they did not is because the State legislatures did not want to go back to their folks in the State and say to get tough on crime we have to build more prisons. To get tough on crime we have to raise your taxes. To get tough on crime we are going to increase our spending. Most States did not do that.

What this does, it gives the States the option to be cost effective. For 40 percent of cost, they can take the nonviolent offenders, who are serving time in a penitentiary, behind bars, in a secure, maximum security facility, put them behind barbed wire with folks with guns watching them, in Quonset huts, and free up hard-core prison space for the violent offenders.

At a minimum that is what boot camps do. At a minimum. They also do much more. But in the interests of time I will not belabor the Senate with that argument.

So, to sum up, what I do here is I come up with a total of $117 million in shifting around of how the Appropriations Committee allocates the money. I take $117 million and I get it two ways. One, I take a total of $21.2 million from State prisons, which were increased by a quarter-billion dollars by this committee over the requested amount, and over what the House has, still leaving a total of $225 million for prison grants. And I take money by increased fees on people obtaining green cards, because they now would have to go home and spend the cost of going home and back to be able to get the green card and now they do not have to do that. It is not onerous. It is a reasonable charge for that privilege. And that is how I get the $117 million in offsets.

I take that money and I put it in the drug courts, drug treatment and prisons and rural drugs as well as law enforcement, family support.

I thank my friend from New Hampshire for his indulgence in listening to my amendment and I will be happy to yield the floor for him or anyone else to speak against the amendment. But I ask unanimous consent to send the amendment to the desk, that no amendments to my amendment be in order, and that my amendment be in order.

Mr. GREGG. I have no objection.

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

AMENDMENT NO. 2818

(Purpose: To restore funding for residential substance abuse treatment for State prisoners, rural drug enforcement assistance, the Public Safety Partnership and Community Policing Act of 1994, drug courts, grants or contracts to the Boys and Girls Clubs of America to establish Boys and Girls Clubs in public housing, and law enforcement family support programs, to restore the authority of the Office of National Drug Control Policy, to strike the State and Local Law Enforcement Assistance Block Grant Program, and to restore the option of States to use prison block grant funds for boot camps)

Mr. BIDEN. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself and Mr. BRYAN, proposes an amendment numbered 2818.

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

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

The amendment is as follows:

On page 26, line 10, after ''Act;'' insert the following: ''$27,000,000 for grants for residential substance abuse treatment for State prisoners pursuant to section 1001(a)(17) of the 1968 Act; $10,252,000 for grants for rural drug enforcement assistance pursuant to section 1001(a)(9) of the 1968 Act;''.

On page 28, line 11, before ''$25,000,000'' insert ''$150,000,000 shall be for drug courts pursuant to title V of the 1994 Act''.

On page 29 line 6, strike ''$750,000,000'' and insert ''$728,800,000''.

On page 29, line 15, after ''Act;'' insert the following: ''$1,200,000 for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act''.

On page 44, lines 8 and 9, strike ''conventional correctional facilities, including prisons and jails,'' and insert ''correctional facilities, including prisons and jails, or boot camp facilities and other low cost correctional facilities for nonviolent offenders that can free conventional prison space''.

On page 20, line 16 strike all that follows to page 20 line 19 and insert:''

Section 245(i) of the Immigration and Nationality Act (8 U.S.C. 1255(i)) is amended—

(1) in the second sentence of paragraph (1), by striking ''five'' and inserting ''ten''; and

(2) in paragraph (3), by inserting before the period at the end the following: ''or, notwithstanding any other provsion of law, may be deposited as offsetting collections in the Immigration and Naturalization Service ''Salaries and Expenses'' appropriations account to be available to support border enforcement and control programs''.

The amendments made by subsection (a) shall apply to funds remitted with applications for adjustment of status which were filed on or after the date of enactment of this Act.

For activities authorized by section 130086 of Public Law 103–322, $10,300,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

Mr. BIDEN. I realize this is a mildly backward way of doing it, speaking to it before I send it to the desk, but I did it, and I yield to the Senator from New Hampshire.

Mr. GREGG. Mr. President, I appreciate the presentation of the Senator from Delaware. There is some which I agree with and some which I do not agree with. I would like to point out that I agree with his comments relative to boot camp. We have used the boot camp process in New Hampshire, and it has been quite successful. I have to believe that the decision to drop the boot camp was inadvertent. I hope we will correct it.

If the Senator at some point wishes to divide his amendment and bring that up separately, I would certainly be supportive of it. In any event, hopefully we can at least work out that part of his amendment.

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. GREGG. 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. WELLSTONE. Mr. President, I rise in support of the Biden amendment. I ask unanimous consent to be added as an original cosponsor. Included in this amendment is a provision to restore the Community Oriented Police Service Program and the local community crime prevention block grant and that is the part to which I would like to address my remarks.

The bill the Senate is currently considering: (1) would dismantle the COPS program, (2) would combine the COPS program and the crime prevention block grant into one big block grant, and (3) would cut the funding for both.

I believe this would, first of all, open the door to funding anything under the sun that a Governor determines is law enforcement or crime prevention. And, it effectively would eliminate all crime prevention from this crime bill that is now law. For when law enforcement is pitted against crime prevention efforts, law enforcement always wins.

This, I say to my colleagues, turns the clock back on the commitment we made last year to help communities fighting as well as prevent crime.

Last year Congress passed and the President signed the Violent Crime Control and Law Enforcement Act of 1994. A central part of the crime bill included money for the hiring, over 5 years, of 100,000 more police officers under the Community Oriented Policing Services (COPS) Program. To date, under this program, more than 25,000 police officers have been hired—in Minnesota alone, 354 new cops have been funded. Importantly, each of these officers was hired to be on the beat, not in the office.

At a time of very tight budgets, the money for both the COPS Program and the crime prevention block grant come from savings achieved by reducing the Federal bureaucracy. None of these new police officers or crime prevention programs are adding an additional burden on the taxpayer. We, as a Congress, and indeed a country, made fighting crime a top priority last year when we decided to use the savings from streamlining the Federal Government and from cutting some domestic programs for fighting crime.

The COPS Program is a good program. It is reaching and helping communities. It is very flexible. Local jurisdictions can work with the Justice Department to meet their particular needs. The Justice Department has acted swiftly, has minimized the paperwork, and has staffed 800 numbers for immediate assistance. It is not surprising, therefore, that approximately 200 Minnesota jurisdictions have participated in this program. What's more, just a few weeks ago Attorney General Janet Reno announced a new effort at the Department of Justice to target some of these new cops on the beat to helping address domestic violence.

Having more cops involved in community policing fighting crime, means less crime. It is as simple as that. In only a short time the COPS Program is already delivering on its promise of providing more police officers in a very cost-effective, flexible manner. Not surprisingly those on the front line in the fight against crime have only praise for this program. Police chiefs, sheriffs, deputies, and rank-and-file police officers all support this effort to put more police in communities.

But now this very successful, popular crime-fighting program is under attack by Republicans who want to convert its funding into a block grant. Unfortunately, the Republican block grant plan does not stipulate that the money must be spent on hiring cops. Instead, the money can be redirected to fund restaurant inspectors, parking meters, radar guns—and any other of a host of things.

The money ought to be spent the way it was intended and the way law enforcement officials want it spent: to hire police officers. The Nation's major police enforcement organizations all agree on this point.

We all know that crime is one of the great plagues of our communities. People in the suburbs and people living downtown are afraid—they are afraid to go out at night, they are afraid to venture into the skyways, they are afraid to leave their cars parked on the street. We also all know that having a larger police presence helps deter the very crimes that people fear the most. Buying more parking meters, radar guns, or hiring more restaurant inspectors does not address this plague nor address peoples' legitimate fears.

It is peculiar that the party that claims to be tough on law and order is proposing as one of its first steps to change a successful, cost-effective ''law and order'' program—one that ought to have broad, bipartisan support.

Crime prevention was also an essential element of the crime bill. Despite the fact that at each step of the way in passing the Crime bill, prevention programs got watered down, in the end we decided that crime prevention had to be part of this bill.

Two years ago, when Congress began consideration of the crime bill we started with a substantial portion of the crime bill addressing prevention; after all, prevention is crime control, stopping crime before it ever happens. It, by the way, included something that I think is extremely important—supervised visitation centers. A model that I brought from Minnesota to help families with a history of violence.

Ultimately, we ended up with a crime bill that included a block grant to the States for prevention programs—the local community crime prevention

block grant. And, funding was not even authorized until FY 96. We haven't even given it a chance to work and get into communities—one of the few provisions in the crime bill that was intended to prevent crime, one of the few provisions that was not funded until next year and some in Congress are trying to cut it off at the knees.

The Biden amendment would restore the crime bill structure and ensure that some of the funds that were set aside as part of the Crime Control Trust Fund are spent on real prevention programs.

The local crime prevention block grant, like the COPS Program, provides a lot of flexibility to the States and communities. Under this block grant, communities can determine what types, within a general list of about 14 different ideas, of prevention programs to fund, what prevention plans fit their community the best. But this block grant is for prevention, nothing else. Again, it is one of the few aspects of the crime bill that focuses on prevention, an essential element of any crime fighting effort. And, as I stated earlier, it has not even had a chance to be implemented. This coming year would be the first year funding will actually go to help communities.

I cannot emphasize enough how important crime prevention is—especially now. And, under this appropriation bill very little, if any, funding would go to prevent crime.

If we were to listen to people in the communities that are most affected by the violence, they would say to us you have to have the money in prevention. But how interesting it is that those who would essentially eliminate these prevention programs do not come from those communities, do not know the people in those communities, and I do not think they asked the people in those communities at all what they think should be done.

Mr. President, I can just tell you that in meeting with students, students that come from some pretty tough background—students at the Work Opportunity Center in Minneapolis, which is an alternative school, young students who are mothers and others who come from real difficult circumstances, all of them said to me: You can build more prisons and you can build more jails, but the issue for us is jobs, opportunity. You will never stop this cycle of violence unless you do something that prevents it in the first place.

Then I turn to the judges, the sheriffs, and the police chiefs, and I call them on the phone in Minnesota, and I ask them what they think. And they say yes we need community police and yes we need the other parts of the crime law, but they all say, if you do not do something about preventing crime, if these young people do not have these opportunities, if we do not get serious about reducing violence in the home, do not believe for a moment that we are going to stop the cycle of violence.

Mr. President, I believe that a highly trained police, highly motivated, community-based, sensitive to the people in the communities, can make a difference. They are wanted and they are needed. But the bill we are considering today will do nothing to prevent the criminal of tomorrow. And indeed without more cops on the beat it may not do much to fight the criminals of today.

Every 5 seconds a child drops out of school in America. This is from the Children's Defense Fund study. Every 5 seconds a child drops out of a public school in the United States of America. Every 30 seconds a baby is born into poverty. Every 2 minutes a baby is born with a low birthweight. Every 2 minutes a baby is born to a mother who had no prenatal care.

Every 4 minutes a child is arrested for an alcohol-related crime. Every 7 minutes a child is arrested for selling drugs. Every 2 hours a child is murdered. Every 4 hours a child commits suicide, takes his or her life in the United States of America. And every 5 minutes a child is arrested for a violent crime.

Mr. President, if we do not continue to be serious about the prevention part, we are not going to stop the cycle of violence.

All too many young people are growing up in neighborhoods and communities in our country where if they bump into someone or look at someone the wrong way they are in trouble, where there is too much violence in their homes, where violence pervades every aspect of their life. And people who grow up in such brutal circumstances can become brutal. And that should not surprise any of us.

Prevention and law enforcement—both essential elements of any crime fighting effort. These two should not have to compete with each other for funding, nor should funding be cut for either.

I urge my colleagues to support the Biden amendment.

IN DEFENSE OF THE COPS PROGRAM

Mr. PRYOR. Mr. President, I rise today in support of a program that is vital to each and every one of us. It is vital to the safety of our States, of our towns, of our communities. In 1994, Congress passed the omnibus crime bill. Among other things, this important legislation will put 100,000 more police officers on the street through the Community Oriented Policing Services Program—or COPS Program.

Today, as I stand in this Chamber, there are over 25,000 officers that would not be out there—protecting citizens in communities across this country—if it were not for the COPS Program.

If we eliminate this program and turn the fund over to the States in a block grant, as the Appropriations Committee has proposed, there is no guarantee that a single additional police officer will be hired. Not one. We made a commitment to the American people when we passed the crime bill. all of us, Republicans and Democrats alike, made a commitment to the citizens of this country that we would work with them to reduce crime. The COPS Program insures that more police officers will be on the beat in towns and communities across the country.

Mr. President, of the 100,000 new police officers promised, almost 26,000 have already been hired—253 in Arkansas alone. Our police departments are made up of men and women who put their lives on the line every day to make our streets safer—not just in big urban areas, but in small towns and rural areas. With a block grant, funds may not filter down to small towns that desperately need the extra help. They are being asked to do more with less as crime rates continue to rise rapidly. Gangs and drug dealers are migrating out of the larger, more sizable cities and into the smaller towns at an alarming rate.

It is our duty, Mr. President, to assist the prevention of crime in our country. The major law enforcement organizations in my State of Arkansas, as well as across the country, have united in support the COPS Program. They tell us that this program is working, that it is getting more officers on the streets. So why are we eliminating a program that is working?

I have received phone calls and letters from police chiefs and sheriffs in towns, both large and small, throughout my State praising this program.

For example, the Danville Police Department in Danville, Arkansas, has, through the COPS Program, been able to hire an additional officer to patrol the streets at night. In the month since Mike Pyburn has been hired, he has already made a drug arrest. As he was patrolling the streets one night, Officer Pyburn spotted and stopped a person with a warrant out on a misdemeanor. In this person's possession at the time of the arrest was 14 individually wrapped bags of marijuana. The COPS Program enabled this officer to be on the job and get these illegal drugs off the streets of Danville. This is one of many arrests this officer has made. Having additional night patrols has not only improved public safety, it has relieved the people's fears. The citizens of Danville can now sleep at night feeling a little safer because Officer Pyburn is on duty.

Colonel John Bailey, the Director of the Arkansas State Police, put the importance of the COPS Program into simple terms. He said that ''This program puts the money where the problem is. In five years, anyone in Washington can come down and I'll say, 'This is what your money provided for us. Here he is.' and introduce them to my new officer.'' You can't necessarily say that with block grant funds, Mr. President.

This program is effective, and it is easy for law enforcement agencies to

apply for the additional officers they so desperately need. Unlike most Federal grant programs, there are not pages and pages of complicated forms to be filled out, and extensive regulations to follow. For small towns, there is one page to fill out. That's it. One page. And it takes less than an hour to fill out.

I have a letter from Larry Emison, the Sheriff of Craighead County in Northeast Arkansas. They also have used their COPS grant to add an additional deputy to their night patrol. He has been in place since April, but the community has noticed a difference and feels safer on the streets, particularly at night. Mr. President, this feeling of safety is due in large part to this officer made possible through the COPS Program.

Chief Wiley White in DeValls Bluff has called this program ''a lifesaver for the community.'' He hired David Huggs, a former prison guard who he had been working with for years. Chief White told me that Officer Huggs has ''been a miracle for this town.''

I have a lot of these stories, Mr. President. Officer Rebecca Hanson was hired in Crittenden County, Arkansas, to investigate criminal sexual abuse to children. Officer Hanson has special training in interviewing children about the abuse they have suffered. In her first 5 months since being hired, Officer Hanson has handled a total of 42 cases, resulting in 7 arrests. We can only speculate as to what might have happened to these innocent children if it hadn't been for Officer Hanson's presence on the police force.

The Morning News of Northwest Arkansas reported in July how valuable the COPS Program has been to the Rogers Police Department and the citizens of Northwest Arkansas. Two new officers have been added to their force. According to the article, Capt. Steve Russell of the Rogers Police Department said that the grant program has given them the opportunity to have additional personnel that they would not have had otherwise. Captain Russell said the COPS FAST grant program is an example of how the Federal Government can make it easier for local agencies to reap the benefits of Federal programs. I ask unanimous consent that the article be printed in the RECORD. I also ask unanimous consent that a few of the letters I have received on the COPS Program be printed in the RECORD.

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

[From the Morning News of Northwest Arkansas, July 19, 1995]

POLICE DEPARTMENT RECEIVES GRANT

(By Thomas Sissom)

The Rogers Police Department will reap the benefits of President Clinton's campaign promise to put 100,000 more law-enforcement officers on the streets with the receipt of a $132,337 COPS FAST grant.

''It certainly is a valuable program to local and rural law-enforcement agencies,'' Capt. Steve Russell, administrative commander of the Rogers Police Department, said Tuesday. ''It's given us . . .the opportunity to have additional personnel we wouldn't otherwise have had.''

The COPS FAST program operates under the office of Community Oriented Policing Services of the U.S. Department of Justice. The grant program is designed to help law-enforcement agencies immediately increase their available manpower. The three-year program will allow the Rogers Police Department to add two new officers with the federal grant of $132,337 added to $44,113 in local funds to cover the cost in salaries and benefits of $176,450 over the three years of the grant. After the grant ends, all of the costs will be borne by the local agency.

Russell said the COPS FAST grant program is an example of how the federal government can make it easier for local agencies to reap the benefits of federal programs.

''This was one of the fastest programs we've seen, in terms of the time from the application to us getting the money,'' Russell said. ''That just allows us to put more police on the streets faster, which we certainly need. The application process was very simple, unlike most federal grants.''

Russell said the Rogers department currently has 59 certified law-enforcement officers, with one approved slot remaining open. The department has four officers who are just completing their 10-week training course at the Arkansas Law Enforcement Training Academy in Camden. Another five are scheduled to start the course Monday. Officers who successfully complete the academy training course still have to complete another 12 weeks of field training with the department, he said, giving new officers about six months of initial training.

According to Russell, the Rogers Police Department's staffing levels are below national average for law-enforcement agencies. Rogers has 1.82 officers for every 1,000 people. The national average is 2.65 officers per 1,000 people. To reach the national average, he said, Rogers would need 87 officers.

POLICE DEPARTMENT,
CITY OF BULL SHOALS,
Bull Shoals, AR, August 1, 1995.

Senator DAVID PRYOR,
267 Russell,
Washington, DC.

SENATOR, I wish to express my sincere thanks for all your work related to the ''Cops'' Programs. As I am sure you know, my Department received a grant to add an Officer to the staff. That hiring has turned out to be a very progressive move. Our citizen contacts have risen markedly, and the results have been very positive.

Charles Robert Chapman is the Officer who was hired. Since his employment, which began 04–15–95, Officer Chapman has been very productive. Within the first month Officer Chapman was on the street he developed the information which lead to a search warrant and arrest of a 32 year old male subject on the charge of being a Felon in Possession of Firearm. The subject who was disarmed, had been convicted and jailed on Felonies for Burglary and Drugs. Officer Chapman also developed information from a citizen that led to the location and confiscation of Marijuana plants being grown on Federal Property. I know that in many Cities these cases along with several cases related to weapons, probation violations, domestic batteries and DWI, would not make an Officer stand out. But here in a relatively secure retirement and recreation area these significant arrests go a long way to ease and assure the minds of our citizens. I have been involved in Law Enforcement for over 20 years and have never seen an Officer so well accepted and welcomed into a community. The ''Cops'' program is what facilitated this boost to our Department.

Again thank You for all your work. I would also like to compliment a member of your staff, Cynthia Wetmore, who has always been very responsive and made many of the processes much easier.

Sincerely,

ROBERT R. WOCHNER,
Chief of Police.

UNIVERSITY OF ARKANSAS FOR MEDICAL SCIENCES, OFFICE OF THE CHANCELLOR,
July 20, 1995.

Sheriff DICK BUSBY,
Crittenden County Sheriff Dept.,
Marion, AR.

DEAR SHERIFF BUSBY: As Multi-disciplinary Team Project Coordinator for the Arkansas Commission on Child Abuse, Rape and Domestic Violence, I wanted to commend your department for their involvement on the Crittenden County Multi-disciplinary Team. The dedication of local community professionals has had a positive impact upon the child abuse victims in your county. The Commission is particularly pleased with the number of joint investigations being conducted. Crittenden County is one of the few counties involved in joint investigations. Children are indeed much less traumatized and the quality of investigations is improved. Your time is extremely valuable and we appreciate that you are willing to give so generously to child abuse victims. We hope that you will continue to participate in the Crittenden County Multi-disciplinary Team efforts.

Sincerely,

SHANA H. CHAPLIN,
MDT Project Coordinator.

LARRY EMISON,
COUNTY SHERIFF,
Jonesboro, AR. August 2, 1995.

Senator DAVID PRYOR,
Russell Building, Room 267,
Washington, DC.
Attn: Cynthia Wetmore
REF: COPS Grant

DEAR SENATOR PRYOR: We are very pleased to be the recipient of a COPS grant for 1 deputy sheriff. Due to a lack of manpower in the past, our night patrol was lacking. This additional deputy has been placed on the night shift, therefore, giving us at least 2 deputies per night patrolling Craighead county. This has only been in place a short period of time and I can already see a difference with this additional coverage. I have had several comments from citizens within the county, stating that they now see a patrol car at night more than they have in the past.

I want to personally thank you, Congress, and President Clinton for making this program available. This will make great difference in the fight against crime in the United States.

Sincerely,

LARRY EMISON,
Craighead County Sheriff.

Mr. PRYOR. Mr. President, putting an additional 100,000 officers on the streets is a promise that this body made last year when it passed the crime bill. It is our duty to continue this vital program that represents an approximate 20 percent increase in the American police force. What the American people want is to feel safe in their homes and on the streets of their neighborhoods. They deserve this safety and the COPS Program is delivering it to them. I urge my colleagues to

stand with me in protecting what is important to our country. I urge you to vote to save the COPS Program.

LEGAL SERVICES TO NATIVE AMERICANS

Mr. INOUYE. Mr. President, I seek a few moments in order to seek clarification from my esteemed colleague, the senior Senator from Alaska, with regard to language that is contained in an amendment proposed by my colleague. When the Subcommittee on Commerce, Justice, State and the Judiciary met to consider H.R. 2076, the appropriations bill for fiscal year 1996, Senator STEVENS proposed an amendment to the amendment proposed by the esteemed chairman of the full committee, Senator HATFIELD, relating to the provision of legal services as it affects Native American households.

Mr. STEVENS. Mr. President, my amendment, which was adopted by the Subcommittee on Commerce, Justice, State and Judiciary on September 7, 1995, provides that in States that have significant numbers of eligible Native American households, grants to such States would equal an amount that is 140 percent of the amount such states would otherwise receive. My amendment was necessary in order to prevent a serious reduction in legal services to Native Americans. Under current law, there is a separate, additional appropriation for legal services to the Native American community. The Legal Services Corporation is also given the flexibility to allocate additional resources to States like Alaska, which experience increased costs due to the difficulty of providing legal services to remote populations, many of which are comprised of Native Americans. Given the fact that the Legal Services Corporation, including the separate Native American appropriation, was eliminated the committee's bill, my amendment was necessary in order to ensure the continued provision of legal services to the Native American community.

Mr. INOUYE. Mr. President, I wish to express my deep appreciation to my colleague from Alaska for his efforts in this area, and for recognizing that the significant needs for legal assistance in Native American communities span a broad range of issues, from housing and sanitation to health care and education. In my own State of Hawaii, Native Hawaiians comprise less than 13 percent of the population, but represent more than 40 percent of the prison inmate population. Native Hawaiians have twice the unemployment rate of the State's general population and represent 30 percent of the State's recipients of aid to families with dependent children. Over 1,000 Native Hawaiians are homeless, representing 30 percent of the State's homeless population. Native Hawaiians have the lowest life expectancy, the highest death rate, and the highest infant mortality rate of any other group in the State. Moreover, they have the lowest education levels and the highest suicide rate in Hawaii.

Mr. President, in my State, we have the Native Hawaiian Legal Corp. [NHLC], a nonprofit organization established to provide legal services to Native Hawaiian community. NHLC has a 20 year history of providing exemplary legal assistance to Native Hawaiians, and it has long been affiliated with the Native American Rights Fund. Fifteen percent of NHLC's annual funding comes from the Native American portion of the Legal Services Corporation budget. It is my understanding that the language proposed by my esteemed colleague from Alaska is to ensure the continued provision of legal services to Native Americans that are currently being provided through a separate Native American allocation of the funding provided to the Legal Services Corporation. My question of my colleague from Alaska is whether it is his intent that Native Hawaiians would continue to be eligible to receive funds appropriated for the provision of legal services under your amendment, consistent with the current situation under the Legal Services Corporation?

Mr. STEVENS. I thank the Senator for his earlier comments. My colleague from Hawaii, in his capacity as the former chairman of the Indian Affairs Committee, has traveled many, many times to my State of Alaska, and I know that he has come to appreciate the very difficult circumstances under which the vast majority of our native villages live. I know the challenges the Senator from Hawaii faces in trying to meet the needs of native communities in the State of Hawaii, and I therefore understand full well his desire to clarify the meaning of ''Native American households''. When I proposed this language, it was my intention to ensure that those Native American communities, including native Hawaiian households, currently being served by the Legal Services Corporation would continue to have access to legal services under the block grant approach proposed by Senator HATFIELD. Have I sufficiently addressed my colleague's concerns?

Mr. INOUYE. Mr. President, I wish to thank my colleagues from Alaska, for clarifying this matter for me. I am certain that the native Hawaiian community will be most appreciative of the Senator's clarification.

ABUSES INVOLVING MICROWAVE INCUMBENTS

Mr. BREAUX. I would like to raise an issue that has become of concern to several members of this committee on both sides of the aisle.

Previously, as chairman of this committee and of the Appropriations Subcommittee, the Senator from South Carolina was instrumental in establishing spectrum auctions for new PCS services, and was a guiding force on developing the rules that were adopted by the FCC governing relocation of microwave licensees out of this spectrum.

He is aware, as we have discussed, that certain enterprising individuals have recruited a number of microwave incumbents as clients and now seem to be manipulating the FCC rules on microwave relocation to leverage exorbitant payments from new PCS licensees.

I am advised that if this practice continues unchecked, more and more microwave incumbents are likely to employ these unintended tactics. More importantly, it will reportedly devalue spectrum in future auctions to the tune of up to $2 billion as future bidders factor this successful gamesmanship into their bidding strategy. Previously scored revenue for deficit reduction will be unfairly diverted instead into private pockets.

Would the Senator agree with me:

First, that this type of gaming of relocation negotiations was unintended, is unreasonable, and should not be permitted to continue unchecked;

Second, that the affected parties should attempt to agree on a mutually acceptable solution to this problem;

Third, that if an acceptable compromise cannot be brought forth by the affected parties within a reasonable time period, then either Congress or the FCC should address this matter as quickly as possible with appropriate remedies?

Mr. HOLLINGS. I thank my colleague for raising this issue. As he noted, I offered an amendment on the State, Justice, Commerce Appropriations bill in 1992 on this issue. The electric utilities, oil pipelines, and railroads must have reliable communications systems. The FCC initially proposed to move these utilities' communications systems from the 2 gigahertz band to the 6 gigahertz band without ensuring that the 6 gigahertz band would provide reliable communications.

My amendment, which the FCC subsequently adopted in its rules, guaranteed that the utilities could only be moved out of the 2 gigahertz band if they are given 3 years to negotiate an agreement, if their costs of moving to the new frequency are paid for, and if the reliability of their communications at the new frequency is guaranteed.

Now I understand that some of the incumbent users may be taking advantage of the negotiation period to delay the introduction of new technologies. It was certainly not my intention to give the incumbent users an incentive to delay moving to the 6 gigahertz band purely to obtain more money. I agree with my friend that the parties involved in this issue should try to work out an acceptable solution to this issue. If the parties cannot agree to work out a compromise, I believe that Congress or the FCC may need to revisit this issue.

WOMEN'S BUSINESS PROGRAMS

Mrs. HUTCHISON, Mr. President, I would like to address an important portion of the Hatfield amendment, preservation of Small Business Administration funding for women's business programs.

I believe the issue of women in business needs to be placed in the clearer context.

The new dynamics of the American economy have brought about a sea-change in society. Thirty years ago, when most women entered the work force, they did so to supplement their families' incomes. Most often, women working outside the home did so in clerical and support roles.

Thirty years ago, a young couple could live on the income of one professional. On that income, a schoolteacher could buy a nice house in a good neighborhood. Young families could hope to save, drive a nice car, educate their children, and take vacations. Today many cannot.

Economic restructuring and societal changes have accelerated the entry of women into the work force, into the professions and into business. We see the challenges these changes have generated all around us.

Nothing has been more exciting and challenging, though, than the emergence of women as business builders and entrepreneurs. Without exception, every aspect of business offers extraordinary opportunities for women.

Women-owned firms are an increasingly dynamic sector of our economy.

According to the most recent census data available—1982–87—the number of women-owned firms increased by 57 percent—more than twice the rate of all U.S. businesses.

These businesses employed 35 percent more people in the United States than the Fortune 500 companies employed worldwide, and had a payroll of nearly $41 billion.

More women-owned businesses have staying power—over 40 percent have been in business for 12 or more years.

Businesses owned by women tend to hire more women. It is not unusual to find that two-thirds of their employees are women.

In 1993, the Small Business Administration's flagship lending program, the 7(a) program, guaranteed 25,000 loans totaling $6.4 billion to women-owned businesses. While women-owned businesses accounted for nearly one-third of all small businesses, they only made up about 10 percent of loan recipients that year. In 1994, that total rose to 24 percent.

In spite of their successes in getting started in providing employment, one of the biggest impediments that women-owned businesses face today is constraints on their growth—they remain small. Women-owned businesses average annual sales of $67,000, compared to $140,000 in sales for all small businesses.

That is why, Mr. President, the National Women's Business Council and the Women's Business Ownership Development Program are so important.

The National Women's Business Council monitors plans and programs developed in the private and public sector which affect the ability of women-owned businesses to obtain capital and credit. The council also develops and promotes new initiatives, policies and plans designed to foster women's business enterprises.

It has conducted: symposiums on getting access to capital, in conjunction with the Federal Reserve; and informational meetings on Federal Government procurement contract opportunities for women-owned businesses.

In November, the council plans to initiate a project with Northwestern University's Kellogg School of Management to develop an agenda for national research on women's entrepreneurship.

The continuation of current funding for this council's salaries and expenses at a level of $200,000 represents a modest—but prudent—investment in our Nation's business sector.

There is an urgent argument to be made for well-thought-out initiatives aimed at encouraging more women to create their own businesses:

Here are some disturbing facts: half of all working women are sole support for themselves and their families; and women and the children they support comprise more than 75 percent of people who live in poverty in the United States.

Mr. President, if we as a Nation want to reduce the reliance of women and children on welfare and social service programs, these women must become economically self-sufficient—and the opportunity for self-sufficiency will most likely come from women-owned enterprises.

The Women's Business Ownership Development Program addresses these problems in constructive ways. It is a public-private partnership whose goal is the creation of new jobs, increasing the earning potential of women, and forging a larger pool of skilled women entrepreneurs.

There are 38 demonstration sites in 20 States, with plans for more. More than 25,000 clients have been served in urban and rural locations. Each center tailors its program to the particular needs of the community. Training activities include: assistance in accessing capital; management assistance; marketing and procurement assistance; and specialized programs that address home-based businesses and international trade.

The North Texas Women's Business Development Center, which is being dedicated tomorrow, is a shining example of the promise this program holds. It is a collective effort of the National Association of Women Business Owners, the North Texas Women's Business Council, the Greater Dallas Chamber of Commerce, the Dallas-Fort Worth Minority Business Development Corp. and the Dallas County Community College.

Under the auspices of the Women's Business Consortium, this broad-based, private-sector supported initiative will help start-up and growing women-owned businesses. One of the areas on which they will concentrate is Government contracting opportunities for women.

Four million dollars will help establish demonstration sites like the one in Dallas in cities all across this country.

Programs like the National Women's Business Council and the Women's Business Ownership Development Program—modest in scope but breathtaking in the possibilities they hold out to those willing to work hard—have the potential to turn America around. I am pleased my colleagues saw their value and agreed to continued funding.

Mr. LIEBERMAN. Mr. President, I would like to express my concern about the programs that are suffering as a result of the appropriations in this bill. The programs that I am referring to are critical to the future of the U.S. economy. Economic security, competitiveness, jobs. That is what is at risk.

Technology development is slated to be the victim of our budget axe. Investments in technology are investments in our future and should not be terminated. In our enthusiasm to make cuts to balance the budget we are losing sight of the reason we want to balance the budget in the first place—to make our economy stronger. The irony is that by cutting technology programs we are cutting programs that are already making our economy stronger. We will be defeating our own purpose.

I am particularly concerned about the integration of the technology and trade functions in the Department of Commerce. Within the Department of Commerce there are programs that work with the private sector to foster new ideas that may underpin the next generation of products. This is one of the few places where information channels are developed that make sure that the ideas generated in our world class research institutions find their way into the marketplace. Previous Administrations had the foresight to realize that we are entering a new era, an era where economic battles are as fiercely fought as any previous military actions. New kinds of technology programs were begun with bipartisan support to make sure that the United States was well armed for these economic battles. I do not want to see us lose our technology edge in the marketplace, because this edge translates directly into jobs for our work force, new markets for American business, improvements in our balance of trade, and from this economic success, desperately needed revenues for our treasury. The home of technology programs is with our trade programs where they will have the most impact and do the most good for our economy. The Technology Administration is a critical component of the Department of Commerce and we need to make sure that its key functions are maintained.

Making changes in technology and trade functions at this juncture in time must be done extremely carefully. New markets are emerging in developing countries. Conservative estimates suggest that 60 percent of the growth in world trade will be with these developing countries over the next two decades. The United States has a large share of imports in big emerging markets currently, in significant part because of the efforts of the Department

of Commerce. While we are making changes in the Department of Commerce, our foreign competitors are increasing their investments in their economies. Competing advanced economies are just waiting for us to make a move that will weaken our economic capacity. We cannot afford to dismantle successful programs that are making and keeping the United State competitive. We should be sure that changes we make will be improving the Government's efficiency and improving the taxpayer's return on investment.

The kind of technology programs that I am advocating are not corporate welfare or techno pork. I find these terms not only inaccurate and derived from ignorance, but offensive. American industry is not looking for a handout. Quite the contrary. These programs are providing incentives to elicit support from the private sector for programs that are the responsibility of the Government. Times are tough and the Government needs to cut back, so we are looking for the handout from private industry, not the other way around. Let me explain.

Everyone agrees that when markets fail, it is legitimate to have the Government step in. For example, so-called basic research, the Government funds, because no one industry can capture the benefits of the investment. Basic research is described as research that is so far reaching that it will impact a wide array of applications in a variety of different industries on a timeframe that could be quite long. No one expects a single company to make an investment, when it can not capture a sufficient return on its investment, or when the investment would be too risky or too long term. That would be bad business. I agree with this definition of basic research and I agree with these criteria for the appropriate role for government investments. These criteria apply equally to investment in technology research, as long as the technology research is precompetitive, high risk, and long term.

So-called basic research has also been defined as research that does not have any clear application. This definition is puzzling. One could legitimately ask, why perform research that deliberately has no application? In reality, research is rather fickle and difficult to predict. Sometimes one can plot a nice logical progression from basic research, to applied research, to product development, but this is usually not the case. Often what appears to be basic research turns out to be product development, or applied research results in a fundamental breakthrough with farreaching results, or as most commonly happens, at the end of an experiment, the research scientist must go back to the drawing board and try one more experiment before she can claim success. Thus, the research scenario is complicated and trying to make clear distinctions is artificial at best.

Our goal should be, not to try and categorize research, but to make investments that are appropriate, and that strengthen our economy. I believe that there is an important and legitimate role for government to play in technology research. The National Association of Manufacturers has spoken out strongly in favor of the kind of technology programs that are run by the Department of Commerce. I would like to read some quotes from their statement about Federal technology programs:

The NAM is concerned that the magnitude and distribution of the R&D spending cuts proposed thus far would erode US technological leadership.

A successful national R&D policy requires a diverse portfolio of programs that includes long- and short-term science and technology programs, as well as the necessary infrastructure to support them. The character of research activities has changed substantially in the past decade, making hard and fast distinctions between basic and applied research or between research and development increasingly artificial. R&D agendas today are driven by time horizons not definitions. In short, rigid delineations between basic and applied research are not the basis on which private sector R&D strategies are executed, nor should they be the basis for federal R&D policy decisions.

The NAM believes the disproportionate large cuts proposed in newer R&D programs are a mistake. R&D programs of more recent vintage enjoy considerable industry support for one simple fact: They are more relevant to today's technology challenges. For example, ''bridge'' programs that focus on the problem of technology assimilation often yield greater payoff to a wider public than programs aimed at technology creation. Newer programs address current R&D challenges far more effectively than older programs and should not fall victim to the ''last hired, first fired'' prioritization.

In particular, partnership and bridge programs should not only not be singled out for elimination, but should receive a relatively greater share of what federal R&D spending remains. These programs currently account for approximately 5 percent of federal R&D spending. The NAM suggests that 15 percent may be a more appropriate level.

Given the critical importance of R&D, far too much is being cut on the basis of far too little understanding of the implications. The world has changed considerably in the past several years, and R&D is no different. Crafting a federal R&D policy must take stock of these changes; to date this has not happened.

As the major funder and performer of the R&D in the US, industry believes its voice should be heard in setting the national R&D agenda. The Congress and the Administration should draw on industry's experience and expertise in determining policy choices. For example, as a guide to prioritizing federal R&D programs, the NAM would favor those programs that embody the following attributes: industry led; cost-shared; relevant to today's R&D challenges; partnership/consortia; deployment-oriented; and dual use.

We believe these criteria provide the basis for creation of a template for prioritizing federal R&D spending.

In sum, the NAM remains firmly committed to a balanced federal budget. But we also firmly believe that the action taken thus far in downsizing and altering the direction of US R&D spending is tantamount to fighting hunger by eating the seed corn. We urge the Congress to consider carefully the impact of R&D on US economic vitality and to move forward in crafting an R&D agenda that will sustain US technological leadership far into the future.

I would like to describe two programs in which I have taken a particular interest, the Advanced Technology Program [ATP] and the Manufacturing Extension Program [MEP].

ATP

Dr. Alan Bromley, President Bush's Science Advisor in 1991, determined a list of 20 technologies that are critical to develop for the United States to remain a world economic power. There has been very little disagreement among analysts and industry about the list. No one company benefits from these technologies, rather a variety of industries would benefit with advances in any one of these areas. These are the kinds of areas that form the focus areas of the ATP. The focus areas are determined by industry, not by bureaucrats, to be key areas where research breakthroughs will advance the economy as a whole not single companies.

There is no doubt that industry benefits from partnering with the Government. The nature of the marketplace has changed, and technological advances are a crucial component in maintaining our stature in the new world marketplace. Product life cycles are getting more and more compressed, so that the development of new products must occur at a more and more rapid pace. The market demands products faster, at higher quality and in wider varieties—and the product must be delivered just in time. Innovative technological advances enhance speed, quality, and distribution, to deliver to customers the product they want, when they want it. Ironically, the competitive market demands that companies stay lean and mean, diminishing the resources that are available for R&D programs that foster the kind of innovation necessary to stay competitive. Because of all of these pressures, industrial R&D is now focused on short-term product development at the expense of long-term research to generate future generations of products.

The conclusion is clear. This short-term focus will lead to technological inferiority in the future. Our economy will suffer. Some of my colleagues in Congress believe that basic research will provide the kind of innovation necessary to generate new generations of high-technology products. On the contrary, we have seen historically that basic research performed in a vacuum, that is without communication with industry, is unlikely to lead to products.

In this country, we have the best basic research anywhere in the world. There is no contest. Yet, we continue to watch our creative basic research capitalized by other nations. We must improve our ability to get our brilliant ideas to market. Basic research focuses on a time horizon of 10 to 20 years. Product development focuses on a time

horizon of less than 5 years, and sometimes much shorter than that. It is the intermediate timescale, the 5 to 15-year time-frame that is critical to develop a research idea into a product concept.

We have a responsibility to make sure that our private sector does not fall behind in the global economy. Diminishing our technological preparedness is tantamount to unilateral disarmament, in an increasingly competitive global marketplace. Government/industry partnerships stimulate just the kind of innovative research that can keep our technological industry at the leading edge. These partnerships help fill the gap between short-term product development, and basic research.

American companies no longer survive by thinking only about the national marketplace. They must think globally. Familiar competitors like Japan and Germany, continue to compete aggressively in global markets. New challenges are coming from India, China, Malaysia, Thailand, some of the leading Latin American nations and more. We cannot afford to let jobs and profits gradually move overseas to these challengers, by resting on our laurels, complacent in our successes. Other countries, seeing the success of the ATP, are starting to imitate it, just as we are considering doing away with it. Our competitors must be chuckling at their good fortune, and our shortsightedness. We simply cannot afford to cut the ATP.

MEP

The state of manufacturing in this country is mixed. On the one hand our manufacturing productivity is increasing, but on the other hand we are losing manufacturing jobs by the millions. Manufacturing which once was the lifeblood of our economy is bleeding jobs overseas. We need to provide the infrastructure that insures that our manufacturing industry flourishes.

As I look at our manufacturing competitors, I am struck by how little we do to support this critical component of our economy. In the United States we are used to being the leaders in technologies of all kinds. Historically, English words have crept into foreign languages, because we were the inventors of new scientific concepts, technology, and products. Now when you describe the state-of-the-art manufacturing practices you use words like ''kanban'' and ''pokaoke.'' These are Japanese words that are known to production workers all over the United States. Kanban is a word which describes an efficient method of inventory management, and pokaoke is a method of making part of a production process immune from error or mistake proof thereby increasing the quality of the end product. We have learned these techniques from the Japanese, in order to compete with them.

In a global economy, there is no choice, a company must become state-of-the-art or it will go under. We must recognize that our policies must change with the marketplace and adapt our manufacturing strategy to compete in this new global marketplace. The Manufacturing Extension Program [MEP] is a big step forward in reforming the role of government in manufacturing. This forward looking program was begun under President Reagan, and has received growing support from Congress since 1989.

The focus of the MEP Program is one that historically has been accepted as a proper role of government: education. The MEP strives to educate small- and mid-sized manufacturers in the best practices that are available for their manufacturing processes. With the MEP we have the opportunity to play a constructive role in keeping our companies competitive in a fiercely competitive, rapidly changing field. When manufacturing practices change so rapidly, it is the small- and mid-sized companies that suffer. They cannot afford to invest the necessary time and capital to explore all new trends to determine which practices to adopt and then to train their workers, invest in new equipment, and restructure their factories to accommodate the changes. The MEP's act as a library of manufacturing practices, staying current on the latest innovations, and educating companies on how to get the best results. At the heart of the MEP is a team of teachers, engineers, and experts with strong private sector experience ready to reach small firms and their workers about the latest manufacturing advances.

Another benefit of the MEP is that it brings its clients into contact with other manufacturers, universities, national labs and any other institutions where they might find solutions to their problems. Facilitating these contacts incorporates small manufacturers into a manufacturing network, and this networking among manufacturers is a powerful competitive advantage. With close connections, suppliers begin working with customers at early stages of design and engineering. When suppliers and customers work together on product design, suppliers can provide the input that makes manufacturing more efficient, customers can communicate their specifications and timetables more effectively, and long-term productive relationships are forged. These supplier/customer networks are common practice in other countries, and lead to more efficient and therefore more competitive, design, and production practices.

The MEP is our important tool in keeping our small manufacturers competitive. We are staying competitive in markets that have become hotbeds of global competition, and we are beginning to capture some new markets. More importantly, companies that have made use of MEP are generating new jobs rather than laying off workers or moving jobs overseas. These companies are growing and contributing to real growth in the U.S. economy. For each Federal dollar invested in a small- or mid-sized manufacturer through the MEP, there has been $8 of economic growth. This is a program that is paying for itself by growing our economy.

Each MEP is funded after a competitive selection process, and currently there are 44 manufacturing technology centers in 32 States. One requirement for the centers is that the States supply matching funds, ensuring that centers are going where there is a locallysupported need. In summary, the MEP provides the arsenal of equipment, training, and expertise that our small- and mid-sized manufacturers need to keep them in the new global economic battlefield.

The ATP and the MEP are critical technology investments. They are both run under the auspices of the National Institutes of Standards and Technology, [NIST]. In addition to these NIST programs, NIST itself is at risk. I would like to bring to my colleagues' attention, a recent letter sent by 25 American Nobel prize winners in physics and the presidents of 18 scientific societies. As the New York Times put it ''Budget cutters see fat where scientists see a national treasure.'' These scientists are shocked and appalled that we could think of making cuts in NIST and its programs. According to the scientists ''It is unthinkable that a modern nation could expect to remain competitive without these services'' and they continue ''We recognize that your effort to balance the budget is forcing tough choices regarding the Department of Commerce, however the laboratories operated by NIST and funded by the Department of Commerce are a vital scientific resource for the Nation and should be preserved in the process of downsizing the Federal Government.'' These scientists are the leaders of the scientific community and we should not disregard their advice.

This amendment restores funding for NIST and its programs at a time when we cannot afford to be without their contributions to national competitiveness. Investments in the trade and technology functions in Department of Commerce are investments in our future economic health, in high wage jobs for our workers, in the American dream.

Mr. GREGG. Mr. President, I would ask unanimous consent that the vote scheduled for 9 p.m. this evening be postponed to occur at 10 a.m. tomorrow, Friday, and that immediately following the granting of this consent, Senator DOMENICI be recognized to offer his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Reserving the right to object, Mr. President, is it also understood that we can follow as we originally intended to stack the Domenici vote; namely, after the 10 a.m. vote on the Biden amendment, we would have the Domenici vote?

Mr. GREGG. That, to my knowledge, has not yet been agreed to with Senator DOMENICI. He will be here at 9 to begin debate on his amendment. And at that time I would hope that such an agreement could be reached with Senator DOMENICI.

Mr. HOLLINGS. I would hope so.

Pending that, Mr. President, I would have to object.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. GRAMM. Mr. President, I ask unanimous consent that the vote scheduled for 9 p.m. this evening be postponed to occur at 10 a.m. Friday, and immediately following the granting of this consent that Senator DOMENICI be recognized to offer his amendment.

I further ask unanimous consent that at 9 a.m. the Senate resume consideration of the McCain amendment No. 2816 with 60 minutes equally divided, that a vote occur following the Biden vote with 4 minutes equally divided between the two votes, and that following these votes, the Senate resume consideration of the Domenici amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, did the Senator say I would offer my amendment tonight or tomorrow?

I have no objection.

Mr. GRAMM. Immediately following this, the Senator would do it tonight.

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

The Senator from New Mexico is recognized.

Mr. BIDEN. Mr. President, will the Senator be kind enough to yield for 30 seconds?

Mr. DOMENICI. Certainly.

AMENDMENT NO. 2818, AS MODIFIED

Mr. BIDEN. In the amendment which I sent to the desk numbered 2818, my omnibus amendment, I made a mistake in two places in it in terms of numbers. They were as described but different than written, and it has been cleared with the majority and minority.

I ask unanimous consent that I may modify my amendment, and I send the modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 2818), as modified, is as follows:

On page 26, line 10, after ''Act;'' insert for following: ''$27,000,000 for grants for residential substance abuse treatment for State prisoners pursuant to section 1001(a)(17) of the 1968 Act; $10,000,000 for grants for rural drug enforcement assistance pursuant to section 1001(a)(9) of the 1968 Act;''.

On page 28, line 11, before ''$25,000,000'' insert ''$100,000,000 shall be for drug courts pursuant to title V of the 1994 Act;''.

On page 29, line 6, strike ''$750,000,000'' and insert ''$728,800,000''.

On page 29, line 15, after ''Act;'' insert the following: ''$1,200,000 for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act''.

On page 44, line 8 and 9, strike ''conventional correctional facilities, including prisons and jails,'' and insert ''correctional facilities, including prisons and jails, or boot camp facilities and other low cost correctional facilities for nonviolent offenders that can free conventional prison space''.

On page 20, line 16, strike all that follows to page 20, line 19, and insert:

Section 245(i) of the Immigration and Nationality Act (8 U.S.C. 1255(i)) is amended—

(1) in the second sentence of paragraph (1), by striking ''five'' and inserting ''ten''; and

(2) in paragraph (3), by inserting before the period at the end the following: ''or, notwithstanding any other provision of law, may be deposited as offsetting collections in the Immigration and Naturalization Service ''Salaries and Expenses'' appropriations account to be available to support border enforcement and control programs''.

The amendments made by subsection (a) shall apply to funds remitted with applications for adjustment of status which were filed on or after the date of enactment of this Act.

For activities authorized by section 130016 of Public Law 103–322, $10,300,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2819 TO THE COMMITTEE AMENDMENT ON PAGE 26, LINES 18 THROUGH 20

(Purpose: To improve provisions relating to appropriations for legal assistance)

Mr. DOMENICI. Mr. President, I am going to send an unprinted amendment to the desk in a minute. This unprinted amendment is an amendment to the committee amendment beginning on page 26, line 18 wherein we add the following. I want to state before I send it there that my cosponsors as of now—and I welcome any others that would like to join—are Senators KASSEBAUM, HOLLINGS, D'AMATO, STEVENS, INOUYE, HATFIELD, KENNEDY, and SPECTER.

Mr. President, the only thing I want to put in the RECORD tonight after I have introduced the amendment, I will put in—I did not. I do not have to send it up until I am ready to send it up. Right? I think that is the rule. I will send it up shortly.

I am putting a list in of the prohibitions that are found in this amendment with reference to what the Legal Services Corporation will be prohibited from doing. So overnight, if anybody has any concern about my not getting rid of class action lawsuits and the like, I would like them to peruse this list and give me their advice.

Therefore, Mr. President, with that explanation, I send the amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. Without objection, the pending question will be the amendment on page 26.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, and Mr. HATFIELD, Mr. HOLLINGS, Mrs. KASSEBAUM, Mr. D'AMATO, Mr. STEVENS, Mr. INOUYE, Mr. KENNEDY, and Mr. SPECTER, proposes an amendment numbered 2819 to the committee amendment on page 26, lines 18 through 20.

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

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

(The text of the amendment appears in today's RECORD under ''Amendments Submitted.'')

Mr. DOMENICI. Mr. President, I believe the Parliamentarian might have had in mind that I sought unanimous consent that there be cosponsors when there was no amendment there.

I now ask that those cosponsors that enumerated a while ago be added as original cosponsors.

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

Mr. DOMENICI. Mr. President, I send two documents to the desk. One is a summary of the Domenici amendment, and a separate sheet indicating the prohibitions that will be imposed on legal services, and I ask unanimous consent that they be printed in the RECORD.

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

SUMMARY: DOMENICI LEGAL SERVICES AMENDMENT, H.R. 2076, COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

IN GENERAL

The amendment restores the Legal Services Corporation, provides $340 million in funding for fiscal year 1996 and adopts House Appropriations restrictions on use of funds. Appropriate offsets will be found throughout the appropriations bill.

FUNDING

Provides $340 million in FY 1996, $225 million through August 31, 1996 and $115, to be provided upon the September 1, 1996, implementation of a competitive bidding system for grants, as outlined in the amendment.

RESTRICTIONS ON USE OF FUNDS BY CORPORATION AND RECIPIENTS

Advocating policies relating to redistricting (same as House).

No class action lawsuits (stronger than House).

Influencing action on any legislation, Constitutional Amendment, referendum or similar procedure of Congress, State or local legislative body (same as House).

Legal assistance to illegal aliens (same as House).

Supporting/conducting training programs relating to political activity (same as House).

Abortion litigation (same as House).

Prisoner litigation (same as House).

Welfare reform litigation, except to represent individual on particular matter that does not involve changing existing law (same as House).

Representing individuals evicted from public housing due to sale of drugs (same as House).

Accepting employment as a result of giving unsolicited advice to non-attorneys (same as House).

All non-LSC funds used to provide legal services by recipients may not be used for the purposes prohibited by the Act (same as House).

SPECIAL PROVISIONS

Competitive bidding of grants must be implemented by September 1, 1995, and regulations must be proposed 60 days after enactment of the Act. Funds will be provided on an ''equal figure per individual in poverty.''

Native Americans will receive additional consideration under the act but no special earmarks are provided as have existed in the past.

Restrictions shall apply only to new cases undertaken or additional matters being addressed in existing cases.

Lobbying restrictions shall not be construed to prohibit a local recipient from using non-LSC funds to lobby for additional funding from their State or local government. In addition, they shall not prohibit the Corporation from providing comments on federal funding proposals, at the request of Congress.

Under the Domenici amendment, all funds, regardless of source, received by the corporation, or its grantees may not be used for the following prohibited purposes:

Advocating policies relating to redistricting. Prohibited.

Class action lawsuits. Prohibited.

Influencing action on any legislation, Constitutional Amendment, referendum or procedure of Congress, State or local legislative body. Prohibited.

Legal assistance to illegal aliens. Prohibited.

Supporting/conducting training programs relating to political activity. Prohibited.

Abortion litigation. Prohibited.

Prisoner litigation. Prohibited.

Welfare reform litigation. Prohibited. Except to represent individual on particular matter that does not involve changing existing law.

Representing individuals evicted from public housing due to sale of drugs. Prohibited.

Accepting employment as a result of giving unsolicited advice to non-attorneys. Prohibited.

All non-LSC funds used to provide legal services by recipients may not be used for the purposes prohibited by the Act. Prohibited.

Additionally, there are a number of clarifying and special provisions:

Competitive bidding of grants must be implemented by September 1, 1995, and regulations must be proposed 60 days after enactment of the Act. Funds will be provided on an ''equal figure per individual in poverty.''

Mr. DOMENICI. I yield the floor.

Mr. SARBANES. Mr. President, I rise in strong support of the Legal Services Program and in opposition to the pending appropriation bill. Pursuant to this legislation, and the Legal Services Program—as it has existed for more than two decades—would be abolished and replaced with a legal assistance block grant program, funded at a level that is drastically less than current funding for legal services.

The Legal Services Corporation has been at the forefront of our efforts to give real meaning to the words emblazoned in stone above the portals of the Supreme Court: ''Equal Justice Under Law.'' The Legal Services Program has provided critically needed services to millions of poor, elderly, and disabled citizens who otherwise would not have access to the American legal system and the protection its affords the many basic rights we enjoy in this country and which so many of us take for granted.

The Legal Services Corporation provides funds to State legal aid programs throughout our Nation. It has been described as one of the most effective and worthwhile Federal programs in existence, while also being one of the least costly. Legal Services programs provided needed legal assistance to approximately 1.7 million clients annually, benefiting about 5 million individuals living in poverty in this country, primarily women and children. LSC accomplishes this using only about 3 percent of its total funding for administration and management. That means that 97 percent of the appropriation goes directly to the local programs that provide the services, clearly illustrating the efficient operation of this valuable program.

Maryland's Legal Aid Bureau, which receives by far the largest portion of its total funding from the Legal Services Corporation, has done an outstanding job of representing Maryland citizens living in poverty. With the funding received from LSC, the 13 legal aid offices located throughout Maryland provide general legal services to approximately 19,000 families and individuals annually, assisting Marylanders in such routine legal matters as consumer problems, housing issues, domestic and family cases, and applying for and appealing the denial of public benefits.

Because the Republican measure proposes that grants be made to individual attorneys, and appears to exclude current legal services programs from eligibility for funding under the program, the Maryland Legal Aid Bureau could lose some of even all of this critical Federal funding. This would leave Maryland Legal Aid unable to provide these vital services to the many thousands of clients currently represented—who, in fact, represent only a small percentage of Maryland's poor citizens—unless alternative funding can be provided at the State and local level.

Mr. President, the Legal Services Corporation has operated an effective and efficient program in representing citizens, who without this assistance, would never have their day in court. Although most of the cases involve routine legal disagreements related to housing, consumer issues, family and domestic matters, and employment, these routine matters often become insurmountable when coupled with the other pressures of a complex society that weigh on a family unable to afford legal representation.

The Republican proposal would replace the Legal Services Corporation with a block grant program administered by the Department of Justice, through which funds for civil legal assistance would be allocated to the States. The bill severely reduces funding for legal services, cutting the funding from the $400 million appropriated to the Legal Services Corporation for fiscal year 1995 to $210 million—a reduction of nearly 50 percent.

Not only does the bill slash funding for legal services for the poor, it also establishes severe restrictions on the type of services that may be provided under the new block grant program. This program would drastically limit qualified services to 10 specific causes of action. As a result, low-income individuals would be denied representation with respect to numerous critical—and basic—legal matters.

Under the measure, qualified services appear to exclude representation in essential legal matters such as applying for or appealing a denial of statutory benefits, including Social Security benefits, veterans benefits, unemployment compensation, food stamps or medical assistance; obtaining or refinancing home ownership; housing discrimination; claims based on consumer fraud or defective products; discrimination in hiring; wage claims; problems with public utilities; immigration; unfair sales practices; preparation of wills; paternity; and patient rights.

Most of these excluded causes of action represent legal matters that routinely arise out of everyday problems faced by many Americans. Under the committee bill, legal assistance with respect to these routine types of cases would be denied arbitrarily to low-income individuals and families.

Additional restrictions would prohibit legal service providers from using funds under the program for representation in cases related to matters such as redistricting, legislative and administrative advocacy, and prison litigation. Class action lawsuits against the Government or private parties—which, contrary to the myth currently being perpetuated, actually encompass less than one-tenth of 1 percent of all legal services cases—would be barred, as would lawsuits challenging the constitutionality of any statute.

Another particularly disturbing provision in the bill would require that any qualified client, as a condition for receiving services under the program, waive the attorney-client privilege and the attorney work product privilege. This clearly interferes with the ethical obligations that all lawyers have to their clients.

Mr. President, the drastic cutbacks and restrictions in this bill would strike a devastating blow to many of our citizens who would find access to the courts blocked and would be unable to assert the rights to which they are entitled by our Constitution and our laws.

I strongly urge my colleagues to oppose these attempts to dismantle this vital program and to support the continuation of the Legal Services Corporation and the current legal services delivery system, as well as increased funding for legal assistance for the poor over the level proposed in this appropriation measure.

An editorial appearing in the September 15 New York Times eloquently addressed the current Republican attack on funding legal services for the poor and the importance of maintaining the Legal Services Corporation. I ask unanimous consent that this editorial be printed in the RECORD.

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

[From the New York Times, Sept. 15, 1995]

SHOWDOWN FOR LEGAL SERVICES

Equal justice for all may be an American ideal but not to the Republican-controlled Congress, where measures advanced ominously this week to abolish the Legal Services Corporation, the federally financed program to help poor people with legal problems.

The corporation, which was created in 1974, managed to survive previous attacks on its mandate and financing during the Reagan and Bush Administrations, aided by powerful Democratic friends in Congress and some Republicans, like former Senator Warren Rudman of New Hampshire. But its continued existence is now in jeopardy. Not satisfied with the disabling funding cut already approved by the full House, or pending provisions in both chambers that would greatly restrict the types of cases that may be handled, the Republicans who control the House and Senate are moving to dismantle the program entirely.

The House voted in July to slash the corporation's budget from $400 million a year to $278 million. By an 18 to 13 straight party-line vote on Wednesday, the House Judiciary Committee approved a measure pushed by Representative George Gekas of Pennsylvania that would carry the demolition further. It would break up the corporation and its expert network of poverty-law specialists and replace them with a more bureaucratic, fragmented and inefficient system of small block grants to fiscally hard-pressed states. Some states have shown little interest historically in providing civil legal services that empower the poor, and may not bother to apply for the dwindling amounts of money allotted. In the Senate, meanwhile, a similarly unworthy dismantling scheme proposed by Senator Phil Gramm of Texas has passed the Appropriations Committee and is due to hit the Senate floor perhaps as early as today. It would cut funding even more, to $210 million, and funnel it through block grants.

The program's critics complain that the corporation uses the courts to push ''a liberal agenda.'' But, clearly, what is driving the attack is their own ideological opposition to what poverty lawyers do, which is to protect the legal rights of the poor. This mostly entails handling mundane eviction, divorce and installment credit cases. Only on rare occasions do legal services lawyers bring the class action lawsuits that so offend the powerful enemies of the program, but which serve a valuable function in holding government agencies accountable.

At a moving news conference, leaders of the bar were joined by religious leaders and Legal Services clients in calling for the presentation of the Legal Services Corporation. The group included two victims of domestic violence, whose lives were dramatically transformed for the better by virtue of having the sort of access to the justice system that Republicans seem determined to foreclose.

Senator Alfonse D'Amato of New York, and other Republicans whose poor constituents stand to be badly hurt by the latest assault on legal services, should fight for amendments to the pending Senate bill that would prevent the worst from happening. If efforts at moderation do not succeed, President Clinton must stand ready with his veto pen.

AMENDMENT NOS. 2820 THROUGH 2828 EN BLOC

Mr. GRAMM. Mr. President, I ask unanimous consent to set aside the Domenici amendment.

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

Mr. GRAMM. Mr. President, I send to the desk a number of amendments that have been cleared on both sides, and I ask unanimous consent that they be considered en bloc.

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

The clerk will report.

The Senator from Texas (Mr. GRAMM) proposes amendments numbered 2820 through 2828 en bloc.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2820

Purpose: To terminate the Regulatory Coordination Advisory Committee, the Biotechnology Technical Advisory Committee, and the Advisory Corrections Council)

At the appropriate place in the bill insert the following new section:

SEC. . (a) The Regulatory Coordination Advisory Committee for the Commodity Futures Trading Commission is terminated.

(b) Section 5(h) of the Export Administration Act of 1979 is repealed.

(c)(1) Section 5002 of title 18, United States Code, is repealed.

(2) The table of sections for chapter 401 of title 18, United States Code, is amended by striking out the item relating to the Advisory Corrections Council.

(d) This section shall take effect 30 days after the date of the enactment of this Act.

AMENDMENT NO. 2821

(Purpose: To extend the authority to administer au pair programs through fiscal year 1999)

At the appropriate place in the bill, insert the following new section:

SEC. . EXTENSION OF AU PAIR PROGRAMS.

Section 8 of the Eisenhower Exchange Fellowship Act of 1990 is amended in the last sentence by striking ''fiscal year 1995'' and inserting ''fiscal year 1999''.

Mr. HELMS. Mr. President, the amendment at the desk extends the life of a program that is essential to thousands of American working parents. It extends the operations of the United States Information Agency's Au Pair program for another 4 years, through the end of fiscal year 1999.

Mr. President, the Au Pair program provides families with two working parents a perfect alternative to day care. It allows these families to invite young people from other countries into their homes, for a year at a time, to live and work. The families and the au pairs, thus, live together while each teaches the other about their respective cultures; in return, the family's children receive exceptional care and the young au pairs experience a year in the United States while living with an American family.

Earlier this year the members of the Foreign Relations Committee adopted a provision that would have extended the life of this program for another 4 years, just as the pending amendment does. The committee-adopted provision, however, is still pending in the committee's authorization bill which the Senate has yet to consider fully. Since the authority to continue this program expires on September 30 of this year, the Senate must take immediate action.

One may ask why I offer a 4-year extension of this program. The answer is twofold: First, the authorizing committee made the decision to extend it for 4 years and, second, so that we can put this issue to rest for at least one additional authorization cycle.

Our committee has spent countless hours overseeing this program during the last few years. The U.S. Information Agency, which administers this program, has spent many hours on it as well. USIA this year applied new regulations to the administration of the au pair program and I want to see these regulations implemented for awhile before a determination is made as to whether the program should be permanently authorized.

Mr. President, the distinguished chairman of the subcommittee has indicated his support for this measure. I thank him and ask that we move on this simple issue expeditiously.

AMENDMENT NO. 2822

(Purpose: To express the sense of the Senate on United States-Canada Cooperation concerning an outlet to relieve flooding at Devils Lake in north Dakota)

On page 124, after line 20, insert the following:

SEC. 6. SENSE OF THE SENATE ON UNITED STATES-CANADIAN COOPERATION CONCERNING AN OUTLET TO RELIEVE FLOODING AT DEVILS LAKE IN NORTH DAKOTA.

(a) FINDINGS.—The Senate finds that—

(1) flooding in Devils Lake Basin, North Dakota, has resulted in water levels in the lake reaching their highest point in 120 years;

(2) basements are flooded and the town of Devils Lake is threatened with lake water reaching the limits of the protective dikes of the lake;

(3) the Army Corps of Engineers and the Bureau of Reclamation are now studying the feasibility of constructing an outlet from Devils Lake Basin;

(4) an outlet from Devils Lake Basin will allow the transfer of water from Devils Lake Basin to the Red River of the North watershed that the United States shares with Canada; and

(5) the Treaty Relating to the Boundary Waters and Questions Arising Along the Boundary Between the United States and Canada, signed at Washington on January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the ''Boundary Water Treaty of 1909''), provides that ''waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other.'' (36 Stat. 2450).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the United States Government should seek to establish a joint United States-Canadian technical committee to review the Devils Lake Basin outlet project to consider options for an outlet that would

meet Canadian concerns with regard to the Boundary Water Treaty of 1909.

AMENDMENT NO. 2823

On page 75 of the bill, line 7, after ''grants'' insert the following: : ''*Provided further*, That of the amounts provided in this paragraph $76,300,000 is for the Manufacturing Extension Partnership program''.

MANUFACTURING EXTENSION PROGRAM

Mr. HOLLINGS. Mr. President, I want to commend the chairman of the Appropriations Committee for including in his amendment an additional $25 million for the Industrial Technology Services account at the National Institute of Standards and Technology [NIST]. That funding is for the Manufacturing Extension Partnership [MEP] program, which supports locally run manufacturing extension centers around the country.

I would like to enter into a brief conversation with the chairman to clarify that this funding is provided for three purposes. First, $22 million is provided to support new centers that are now close to be chosen, under an ongoing centers competition. The amendment restores funding that had been provided in the fiscal year 1995 Appropriations Act for new centers but which the present bill would shift to other purposes. This amendment therefore overrides the committee report language which says that no funds can be used to open a new center during the coming year.

Second, $3 million is provided for fiscal year 1996 support services for the existing 42 manufacturing extension centers. These are services such as materials for training extension agents, provided to centers through MEP's National Programs account. This $3 million is in addition to funds which the bill already provides for fiscal year 1996 support of the existing 42 centers, including the eligible centers originally supported by the Defense Department's Technology Reinvestment Project.

Third, with this amendment the amount of new appropriations for the MEP program now totals $76.3 million, and the amount of prior year appropriations and new appropriations for meeting prior Advanced Technology Program [ATP] commitments totals $109,138,000. The ATP is intended to receive $83,838,000 in prior year appropriations and $25.3 million in new appropriations. I would like to ask the chairman if this three-part interpretation of the MEP portion of his amendment is correct.

Mr. HATFIELD. The Senator is correct.

Mr. HOLLINGS. I thank the Chairman.

AMENDMENT NO. 2824

Table the Committee amendment on page 79, lines 1 through 6.

On page 79, line 22, delete ''$42,000,000'' and insert ''$37,000,000''.

AMENDMENT NO. 2825

On page 115, line 2 after ''equipment'' insert the following '': *Provided further*, That not later than April 1, 1996, the headquarters of the Office of Cuba Broadcasting shall be relocated from Washington, D.C. to South Florida, and that any funds available to the United States Information Agency may be available to carry out this relocation.''

AMENDMENT NO. 2826

At the appropriate place, insert the following new section:

''SEC. . Sections 6(a) and 6(b) of Public Law 101–454 are repealed. In addition, notwithstanding any other provision of law, Eisenhower Exchange Fellowship, Incorporated, may use any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes.''

AMENDMENT NO. 2827

On page 110, between lines 2 and 3, insert the following new section:

SEC. 405. (a) Subject to subsection (b), section 15(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680(a)) and section 701 of the United States Information and Educational Exchange Act of 1948 and section 313 of the Foreign Relations Authorization Act, fiscal years 1994 and 1995 and section 53 of the Arms Control and Disarmament Act, shall not apply to appropriations made available for the Department of State in this Act.

(b) The waiver of subsection (a) shall cease to apply December 1, 1995.

WAIVER OF AUTHORIZATION

Mr. HELMS. Mr. President, the pending amendment authorizes the Senate and House committees on appropriations to waive the requirement in section 15 of the State Department Basic Authorities Act that appropriations must first be authorized. This waiver applies through December 1, 1995.

As chairman of the Senate Foreign Relations Committee which has the responsibility of authorizing the activities of the Department of State and its related agencies, I am reluctant to agree to this waiver. However, because the administration and certain Members of this Senate have refused to allow a vote on the committee's authorization bill—S. 908, the Foreign Relations Revitalization Act of 1995—and since Senate consideration of S. 908 bill is still pending, I have agreed to allow the State Department's funding to go forward without authorization through the first of December.

This window will allow adequate time for the President and his representatives to advise their friends in the Senate that no further efforts on their part should be made to forbid a vote on the authorizing legislation S. 908.

Mr. President, I reiterate now what I have asserted on numerous occasions since the Democrats' filibuster against S. 908 began; the Senate Foreign Relations Committee will resume consideration of and action upon all nominations, treaties, and legislation pending before the committee once the administration urges Senate Democrats to vote on our legislation.

I thank the distinguished chairman of the subcommittee for his cooperation on this issue. I thank him also for his continued support of our efforts to consolidate three anachronistic Federal foreign affairs agencies into the Department of State which, he and I agree, will help balance the Federal budget.

AMENDMENT NO. 2828

(Purpose: To make available for diplomatic and consular programs funds collected from new fees charged for the expedited processing of certain visas and border crossing cards)

On page 93, line 7, after ''*Provided*,'' insert the following: ''That, notwithstanding the second sentence of section 140(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), not to exceed $125,000,000 of fees may be collected during fiscal year 1996 under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal year 1996 as an offsetting collection to appropriations made under this heading to recover the costs of providing consular services and shall remain available until expended: *Provided further*,''.

MACHINE READABLE VISA FEES

Mr. HELMS. Mr. President, this amendment will permit the Department of State to continue to charge and collect a fee for the issuance of machine readable visas in specific countries around the world through fiscal year 1996. The Department may collect up to $125 million worth of fees this year alone.

It also authorizes the Department of State to use the moneys collected to offset the costs of diplomatic and consular activities overseas.

In the fiscal year 1994–95 State Department authorization bill—Public Law 103–236—the Committee on Foreign Relations authorized the Department to charge and collect these fees up to a total of $107 million. The Department almost met that ceiling this past year and expects to exceed that amount this fiscal year in as much as this relatively new program is now being implemented in more countries and, is thereby, made available to more people. Therefore, the Department is authorized to collect approximately $18 million more in fees this year.

Mr. President, this amendment does not cost the American taxpayer a penny. It is, in fact, a tool for sound fiscal management the Department will be able to utilize this year, especially in light of budget cuts affecting the Department of State.

I understand the able chairman of the subcommittee agrees with this measure and I thank him for his support.

Mr. GRAMM. Mr. President, these amendments have all been cleared on both sides.

I ask unanimous consent that they be agreed to en bloc, and that statements accompanying the amendments be printed in the RECORD as if read.

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

The amendments (Nos. 2820 through 2828) were agreed to.

Mr. FORD. Mr. President, on advice from Senator HOLLINGS, who is unable to be here at the moment, I understand that these are acceptable to him on this side.

AMENDMENT NO. 2819

Mr. GRAMM. Mr. President, while we await our instructions on closing out business of the day, I would like to just very briefly, though we are going to speak tomorrow at some length about the Domenici amendment, say that I think it is important tonight to at least to begin to call our colleagues' attention to the fact that the Domenici amendment is not simply an amendment to reestablish the Federal Legal Services Corporation. We can debate the merits of that and the demerits. I believe the demerits outweigh the merits. But the Domenici amendment has a profound impact on the rest of this bill because it cuts other programs.

I simply want to leave with my colleagues tonight a very brief outline of what the Domenici amendment does in order to fund this expansion in legal services.

It cuts $25 million from our efforts in the Justice Department related to the Criminal Division, to the Civil Rights Division, to the Environmental Division. It cuts funding for the U.S. attorneys office by $11 million. That is money that would have gone to fund U.S. attorneys to prosecute drug felons and gun felons. It cuts $40 million from the FBI budget, funds that would be used to build the new FBI academy, to build infrastructure, which the FBI greatly needs.

It cuts the Bureau of the Census both economic and statistical analysis and the census itself in a period when we are getting ready to have the 2000 census, the millennium census. It cuts funding for the court of appeals, for district courts, and for other courts by $25 million. Every day we have people waiting to be tried in civil cases and criminal cases, and we are cutting funding for our courts to fund legal services.

Funding is cut by $21 million for the reorganization/transition fund in the State Department. That is a major Republican initiative in an authorization bill for which the majority of Senators have voted in the affirmative. The bill cuts funding for the commerce transition fund. The budget adopted by the Senate called for the elimination of the Commerce Department. This eliminates transition funds that would be required.

Finally and stunningly, the distinguished Senator from New Mexico has a budget gimmick in the funding mechanism which has a delayed obligation of $115 million which becomes effective only on September 1, 1996, so that we are in fact committing ourselves to a level of funding which is substantially higher than the funding level which is claimed in this amendment.

No one needs to give me a lecture on the power of the special interest groups that support the Legal Services Corporation. I understand that perfectly, and I understand that the majority of the Members of the Senate support funding for the Legal Services Corporation. But I want my colleagues to know that in supporting that funding, they are supporting cuts in our criminal activities, our civil rights activities in the Justice Department, our Environmental Division within the Justice Department. They are denying funding for the FBI Academy and in the process cutting funds for courts.

So what we are talking about is basically cutting funding for prosecutors, for the Justice Department to work in areas that are critically important. We are cutting funding in courts when we desperately need more prosecutors and more courts. I hope my colleagues will look at these offsets.

Governing is about choices, and the choices we look at on this bill are, basically, do we want to fund courts and U.S. attorneys to prosecute violent criminals and drug felons or do we want to fund the Legal Services Corporation? To me that is a very easy choice. I wish to be sure that my colleagues understand it, and I thank the Senate for in the closing moments of this legislative day giving me the opportunity to make it clear to people what we are talking about.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAMM. 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. GRAMM. Mr. President, I send a list of the Domenici offsets to the desk, and I ask unanimous consent that they be printed in the RECORD.

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

POSSIBLE AMENDMENT TO H.R. 2076, AS REPORTED, OFFERED BY MR. DOMENICI OF NEW MEXICO

[Dollars in thousands]

	Budget authority	Outlays
Office of Inspector General:		
On page 4, line 15, strike "$30,484,000" and insert "$27,436,000"	(3,048)	(2,896)
General Legal Activities:		
On page 5, line 11, strike "$431,660,000" and insert "$406,529,000"	(25,131)	(21,864)
U.S. Attorneys:		
On page 7, line 15, strike "$920,537,000" and insert "$909,463,000"	(11,074)	(9,745)
FBI construction:		
On page 16, line 9, strike "$147,800,000; and insert "$98,800,000"	(49,000	(4,900)
Civil legal assistance:		
On page 26, strike lines 18 and all that follows through line 20	(210,000)	(52,500)
Grants to States:		
Beginning on page 52, strike line 9 and all that follows through page 64, line 22	(3,300)	(3,300)
International Trade Commission:		
On page 65, line 22, strike "$34,000,000; and insert "$29,750,000"	(4,250)	(3,825)
Economic and Statistical Analysis:		
On page 70, line 22, strike "$57,220,000" and insert "$46,896,000"	(10,324)	(8,868)
Bureau of the Census, S&E:		
On page 71, line 16, strike "$144,812,000," and insert "$133,812,000"	(11,000	(8,140)
Office of the Inspector General:		
On page 79, line 17, strike "$21,849,000" and insert "$19,849,000"	(2,000)	(1,902)
Court of Appeals, District Courts, & Other:		
On page 87, line 6, strike "$2,471,195,000" and insert "$2,446,194,665"	(25,000)	(23,025)
Foreign Affairs Reorganization Transition Fund:		
On page 95, line 15, strike "$26,000,000" and insert "$5,000,000"	(21,000)	(21,000)

POSSIBLE AMENDMENT TO H.R. 2076, AS REPORTED, OFFERED BY MR. DOMENICI OF NEW MEXICO—Continued

[Dollars in thousands]

	Budget authority	Outlays
Office of the Inspector General:		
On page 96, line 8, strike "27,350,000" and insert "$24,350,000"	(3,000	(2,490)
Legal Services Corporation:		
On page 124, after line 10, insert the following:	215,000	189,200
	125,000	9,166
Working Capital Fund:		
On page 161, line 7, strike "$35,000,000" and insert "$55,000,000"	(20,000)	(20,000)
Commerce Transition Fund	(5,000)	(5,000)

MORNING BUSINESS

Mr. GRAMM. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

OKLAHOMA'S MISS AMERICA

Mr. NICKLES. Mr. President, It is with great pleasure and pride that I congratulate Miss Shawntel Smith, who was crowned Miss America 1996 recently in Atlantic City on her 24th birthday.

Shawntel is the fourth Oklahoman to be named Miss America in the pageant's 75 years. She joins three other Oklahomans who have won that honor: Norma Smallwood in 1926, Jane Jayroe in 1967 and Susan Powell in 1981.

Shawntel is a native of Muldrow, Oklahoma, a town of about 3,200 residents who are by all accounts very proud and supportive of this young lady. When she was crowned Miss Oklahoma earlier this year, the town erected road signs along the Eastern Oklahoma roads leading into Muldrow.

It seems, now, however, those signs are a little outdated.

During the next year, Shawntel will represent Oklahoma and all of America as she travels to special events and speaking engagements as Miss America.

Her platform is to raise awareness for the need to prepare students for the job market. Shawntel believes that "by exposing students to potential careers and making them aware of the education needed, students can make their dreams become realities." And Shawntel obviously knows a little something about making dreams become realities.

Education has been an important part of Shawntel's own life. Through competition in pageants she has been able to earn enough in scholarship money to put herself through Northeastern Oklahoma State University, where she is now working as a marketing director. Shawntel's winnings from the Miss Oklahoma and Miss America pageants will allow her to continue her education. Her goal is to obtain a master's degree in business administration from Oklahoma City University, and I have no doubt she will.

She already has demonstrated her affinity for hard work and tenacity. Shawntel competed in three Miss Oklahoma pageants before she won the title in July of this year.

After the pageant, Shawntel's father, Gailen Smith, commented that when Shawntel speaks to people, her inner beauty shines through. What a wonderful and appropriate sentiment. I congratulate Gailen, and Shawntel's mother, Karen, whose daughter possesses not only physical beauty, but inner beauty and strength of character as well.

Mr. President, Shawntel's example rekindles our belief in each individual's ability to accomplish something extraordinary and restores our confidence in the American spirit of helping others realize their dreams. Our State of Oklahoma, which is home to the finest people anywhere, celebrates her achievement.

Congratulations, Shawntel. We are pleased for you and look forward with great pride to the year ahead as you represent our State and our Nation.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the impression will not go away: The $4.9 trillion Federal debt stands today as a sort of grotesque parallel to television's energizer bunny that appears and appears and appears in precisely the same way that the Federal debt keeps going up and up and up.

Politicians like to talk a good game—and talk is the operative word—about reducing the Federal deficit and bringing the Federal debt under control. But watch how they vote. Control, Mr. President. As of Wednesday, September 27, at the close of business, the total Federal debt stood at exactly $4,955,602,761,788.67 or $18,811.55 per man, woman, child on a per capita basis. Res ipsa loquitur.

Some control, is it not?

ADVANCE NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to Section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a advance notice of proposed rulemaking was submitted by the Office of Compliance, United States Congress. The advance notice seeks comment on a number of regulatory issues arising under the Congressional Accountability Act.

Section 304(b) requires this notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE

(The Congressional Accountability Act of 1995: Extension of Rights and Protections Under the Family and Medical Leave Act of 1993, Fair Labor Standards Act of 1938, Employee Polygraph Protection Act of 1988, Worker Adjustment and Retraining Notification Act and Uniformed Services Employment and Reemployment Rights Act)

ADVANCE NOTICE OF PROPOSED RULEMAKING

Summary

The Board of Directors of the Office of Compliance (''Board'') invites comments from employing offices [use appropriate definition for separate House and Senate publication], covered employees and other interested persons on matters arising in the issuance of regulations under sections 202(d)(2), 203(c)(2), 204(c)(2), 205(c)(2) and 206(c)(2) of the Congressional Accountability Act of 1995 (PL 104–1) (''CAA'' or ''Act'').

The Act authorizes the Board to issue regulations to implement sections 202, 203, 204, 205 and 206 of the Act. The Board issues this Advance Notice of Proposed Rulemaking to solicit comments from interested individuals and groups in order to encourage and obtain participation and information as early as possible in the development of regulations. In this regard, the Board invites and encourages commentors to identify areas or specific issues they believe should be addressed in regulations and to submit supporting background information and rationale as to what the regulatory guidance should be. In addition to receiving written comments, the Office will consult with interested parties in order to further its understanding of the need for and content of appropriate regulatory guidance.

The Board is today, in a separate notice, also publishing proposed rules under section 204(a)(3) of the Congressional Accountability Act relating to the Capitol Police's use of lie detector tests under the Employee Polygraph Protection Act of 1988.

In addition to the foregoing, by this Notice, the Board seeks comments as to certain specific matters before promulgating proposed rules under section 202 through 206 of the Act.

Dates.—Interested parties may submit comments within 30 days after the date of publication of this Advance Notice in the Congressional Record.

Addresses.—Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, Library of Congress, Washington, DC 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile (''Fax'') machine to (202) 252–3115. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, DC., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact.—Executive Director, Office of Compliance at (202) 252–3100. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, 202–244–2705.

Background

The Congressional Accountability Act of 1995 applies the rights and protections of eleven federal labor and employment law statutes to covered Congressional employees and employing offices. The Board of Directors of the Office of Compliance established under the CAA invites comments before promulgating proposed rules under sections 202, 203, 204, 205 and 206 of that Act. The above-referenced sections of the CAA respectively apply the rights and protections of the Family and Medical Leave Act of 1993, 29 U.S.C. 2611 et seq. (''FMLA''); the Fair Labor Standards Act of 1938, 29 U.S.C. 201 et seq. (''FLSA''); the Employee Polygraph Protection Act of 1988, 29 U.S.C. 2001 et seq. (''EPPA''); the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq. (''WARN''); and the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. Chpt. 43. Each of those sections authorizes the Board to issue regulations to implement the section and further states that such regulations ''shall be the same as the substantive regulations promulgated by the Secretary of Labor to implement * * * [the applicable statute] * * * except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.''

Section 304 of the CAA prescribes the procedure applicable to the issuance of regulations by the Board for the implementation of this Act. It furthers requires the Board to recommend in the general notice of proposed rulemaking and in the regulations whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.

Section 411 of the CAA provides with respect to the aforementioned sections that, ''if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board or court, as the case may be, shall apply to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.''

The CAA requires that the Office of Compliance be open for business on January 23, 1996. The statutes made applicable under the aforementioned sections of the CAA become effective for covered employees and employing offices on that date.

These inter-related provisions of the CAA give the Board various rulemaking options under section 202 through 206 of the CAA. So that it may make a more fully informed decision regarding the issuance of regulations (for each or all of the relevant sections of the CAA), in addition to inviting and encouraging comments on all relevant matters, the Board requests comments on the following:

1. General Issues Under the CAA

a. Whether and to What Extent the Board Should Modify the Regulations Promulgated by the Secretary of Labor

The CAA directs the Board to issue regulations that ''shall be the same as substantive regulations promulgated by the Secretary of labor (''Secretary'') to implement * * * [the applicable statutes] * * * except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section'' (emphasis added). This provision provides important guidance concerning how employing offices, covered employees and other interested persons should structure their comments in response to this ANPR and related processes in order to be of maximum assistance to the Board. Accordingly,

the Board requests commentors who propose modifications to the substantive regulations promulgated by the Secretary to identify the ''good cause'' justification of such proposed modification by stating how much modification would be ''more effective'' for the implementation of the rights and protections applied under the CAA. In addition, the Board requests commentors to suggest technical changes in nomenclature or other matters that may be deemed appropriate in any regulation that might be issued.

Section 304(a)(2) of the Act also requires the Board to issue three separate bodies of regulations which shall apply, respectively, to the Senate and its employees, the House and its employees and all other covered employees and employing offices. Certain employment practices and categories of employees may be unique to one or more of these bodies.

The Board invites comment regarding under what circumstances, if any, such differences would warrant a substantive difference in the applicable regulations.

The Board further invites comment on whether and to what extent it should modify the regulations promulgated by the Secretary of Labor.

b. Notice Posting and Recordkeeping Requirements

The CAA does not expressly make reference to the notice posting and recordkeeping requirements of the various statutes applied to covered employees and employing offices. For example, the notice posting and recordkeeping requirements of section 106(b) and 109 of the FMLA and the Secretary's regulations thereunder (29 U.S.C. sections 2616(b) and 2619; 29 C.F.R. sections 825.300 and 825.500) are not expressly referenced in section 202 of the CAA, which applies the rights and protections of the FMLA to covered employees and employing offices. Similarly, the FLSA recordkeeping requirements, 29 U.S.C. section 211(c), and the Secretary's implementing regulations at 29 C.F.R. sections 516.0–516.34, are not expressly referenced in section 203 of the CAA, which applies the right and protections of the FLSA to covered employees and employing offices.

It could be argued that notice posting and recordkeeping requirements are an integral part of the rights and protections of the applied statutes and thus are implicitly included within the requirements of the CAA or that ''good cause'' exists to modify the existing substantive regulations by including some provision for notice-posting and recordkeeping. Notice postings inform covered employees of their rights and protections under the statutes and remind employing offices of their responsibilities. Recordkeeping enables an enforcement authority to determine the extent to which an employing office has complied with applicable law and, even in the absence of such authority, recordkeeping is helpful to an employing office that may be faced with a complaint from one if its employees.

Alternatively, it could be argued that the lack of specific reference in the CAA to the notice posting and recordkeeping requirements of the applied laws evidences congressional intent not to impose notice posting and recordkeeping requirements on employing offices as part of the CAA. Moreover, there is a concern that strictly-imposed notice posting and recordkeeping requirements might impose a significant and unforeseen costs on employing offices in creating and maintaining records that it does not ordinarily maintain. In addition, there may be constitutional or other institutional prerogatives that notice posting and recordkeeping requirements could be said to intrude upon.

The Board invites comment on whether the notice posting and recordkeeping requirements of the various laws made applicable by the CAA are incorporated as statutory requirements of the CAA and, if so, whether and to what extent the Secretary's regulations implementing those requirements should be adopted.

The Board further invites comment on whether, assuming notice posting and recordkeeping requirements are not incorporated as statutory requirements of the CAA, the Board (a) can and should develop its own notice posting and/or recordkeeping requirements pursuant to its ''good cause'' authority or (b) should propose guidelines regarding the types and forms of records employing officials may wish to keep in order to record the wages and working hours of non-exempt employees. Commentors are encouraged to suggest formats and contents which would be made available to employing offices for their consideration.

2. Specific Issues Under Individual Sections

In addition to the preceding issues that arise under all five sections of the CAA, the Board also requests comments on the following matters arising under individual sections of the Act.

a. Issues Under Section 203 (Fair Labor Standards Act)

The Fair Labor Standards Act sets forth requirements for minimum wage and overtime pay (except for exempt employees), equal pay for equal work, and a prohibition on oppressive child labor. With respect to overtime pay, employers must pay all non-exempt employees overtime pay of one and one-half times their hourly rate for each hour worked in excess of 40 hours per workweek. The regulations of the Secretary set forth specific criteria as to whether employees performing particular job responsibilities are *bona fide* executive, administrative or professional personnel.

(i) Employees Employed in a Bona Fide Executive, Administrative or Professional Capacity.

Section 13(a) of the FLSA provides an exemption from its minimum wage and overtime provisions for any employee employed in a bona fide executive, administrative or professional capacity as those terms are defined in regulations of the Secretary. 29 CFR Part 541 contains those regulations.

In addition to the regulations, the Department of Labor has issued interprestations and opinions which have elaborated upon the statutory definitions. The Board recognizes that these regulations, interpretations, and opinions may create uncertainties regarding the scope or application of the exemptions, particularly as they may be applied to the Congress, and it is often difficult to know in advance of litigation whether a particular employee is exempt under these regulations. As a result, employing offices may incur substantial and unanticipated overtime costs absent a major change in employing offices' manner of operation.

The Board invites comments on whether and to what extent the Board should modify the regulations promulgated by the Secretary regarding exempt executive, administrative and professional employees. Commentors are reminded that any suggested modification of the Secretary's regulations should be supported with an explanation as to how such modification would meet the ''good cause'' standard of the CAA. See Section 1.a, supra.

(ii) Whether The Board Should Adopt the Interprestive Bulletins as Regulations.

Various provisions of the FLSA give the Secretary specific regulatory authority; e.g. section 13(a)(1) provides an exemption for executive, administrative and professional employess ''as such terms are defined and delimited from the time to time by regulations of the Secretary . . .'' Regulations pursuant to such specific authorities are codified in 29 CFR Parts 510 to 697.

With respect to many of the other provisions of the FLSA for which the Secretary does not have specific regulatory authority, ''Statements of General Policy or Interpretation Not Directly related to Regulations'' codified in 29 CFR Part 775 to 794 have been issued. Typically, these parts (generally called Interpretative Bulletins) contain language such as the following in section 778.1: ''This Part 778 constitutes the official interpretation of the Department of Labor with respect to the meaning and application of the maximum hours and overtime pay requirement contained in section 7 of the Act. It is the purpose of this bulletin to make available in one place the interpretation of these provisions which will guide the Secretary and the Administrator in the performance of their duties under the Act until they are otherwise directed by authoritive decisions of the courts. . .''

The Board invites comment on the following questions:

(1) Are the Department of Labor's Interpretive Bulletins ''substantive regulations'' with the meaning of section 203(c)(2)?

(2) If the Interpretive Bulletins are substantive regulations, whether and to what extent the Board should modify them?

(3) If the Interpretive Bulletins are not substantive regulations, whether and to what extent the Board should adopt them as the Board's regulations or as official interpretations?

(4) If the Interpretive Bulletins are not substantive regulations, may an employing office nevertheless defend its actions if it has relied upon such an Interpretive Bulletin in light of the provisions of the Portal-to-Portal Act, 29 U.S.C. §251 et seq.?

(iii) Joint Employer Status.

In the context of the FLSA, the term ''employer'' has not been construed as limited to a single employer; it may include two or more nominally separate employers of the same employee. Such ''joint employment'' could arise by analogy under the CAA where a covered employee performs work which simultaneously benefits two or more covered employing offices such as a member's personal office and a committee staff or works for two or more covered employing offices at different times during the workweek.

A determination of whether employment is to be considered joint employment or separate and distinct employment for FLSA purposes depends on all of the facts in a particular case. The Department of Labor's Interpretive Bulletin lists the following factors in determining joint employment status: whether there is an arrangement between the employers to share the employee's services; whether the employee's services are provided to both employers at the same time; whether one employer is acting directly or indirectly in the interest of the other employer in relation to the employee; and whether both employers are commonly controlled. 29 C.F.R. Ch. V, Pt. 791.

Where an individual works for nominally separate employers that are actually ''joint employers'', all of the employee's hours of work are considered as one employment. In that event, all joint employers are liable, both separately and jointly, for compliance with the applicable provisions of the FLSA, including overtime pay.

The Board invites comment on whether and to what extent this doctrine is applicable under the CAA.

The Board further invites comment on whether it should adopt regulations governing joint employment for covered employees and employing offices, and if so, what the content of those regulations should be.

b. Issues Under Section 202 (Family and Medical Leave Act)

The Family and Medical Leave Act generally requires employers to permit covered employees to take up to 12 weeks of unpaid, job protected leave during a 12-month period for the birth of a child and to care for the newborn; placement of a child for adoption or foster care; care of a spouse; child, or parent with a serious health condition; or an employee's own serious health condition. The FMLA and the Secretary's regulations thereunder contain provisions concerning the maintenance of health benefits during leave, job restoration after leave, notice and medical certifications of the need for FMLA leave, and the relationship of FMLA leave to other employment laws including the Americans With Disabilities Act, Workers Compensation, and Title VII of the Civil Rights Act of 1964.

(i) Previous Application of the FMLA to Certain Employees.

The Board notes that Title V of the FMLA made specified rights and protections under the FMLA available to certain employees of the House of Representatives and of the Senate. On August 5, 1993, the House Committee on House Administration of the 103th Congress adopted regulations and forms to implement the FMLA in the House of Representatives.

Title V and such House regulations provided different FMLA rights and protections to employees of the House of Representatives and of the Senate than are provided under the CAA. For example, under Title V, ''any employee in an employment position'' of the House of Representatives and any employee of the Senate who has been employed for at least twelve months on other than a temporary or intermittent basis was eligible for FMLA leave. Thus, Title V provided FMLA leave to House employees immediately upon employment and to Senate employees who had worked at least twelve months on other than a temporary or intermittent basis.

Conversely, Section 202(a)(2)(B) of the CAA defines an ''eligible employee'' for the purpose of FMLA leave as any employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the 12 months immediately preceding the commencement of leave. Consequently, the CAA establishes different leave eligibility requirements than Title V of the FMLA established. The Board further notes that Section 504(b) of the CAA repeals Title V of the FMLA effective January 23, 1996.

Section 2612 of the FMLA as applied to the House of Representatives and to the Senate under the CAA entitles ''eligible employees'' to take up to 12 weeks of FMLA leave in a 12-month period. Section 825.200(b) of the regulations promulgated by the Secretary provides that the employer may elect to use the calendar year, a fixed twelve month leave or fiscal year, or a 12-month period prior to or after the commencement of leave to calculate the 12-month period within which eligible employees are entitled to take up to 12 weeks leave. The Board notes that the August 5, 1993 regulations of the House Committee on House Administration designated for all employing offices of the House of Representatives the period from January 3 of one year through January 2 of the following year as the FMLA leave year within which eligible employees are entitled to take up to 12 weeks of leave. The Board further notes that, pursuant to sections 504(b) and 506 of the CAA, Title V of the FMLA upon which such regulation was based is repealed effective January 23, 1996.

The Board invites comment on the following questions:

(1) Whether and, if so, how, the twelve month and 1,250 hours of work FMLA leave eligibility requirements should be calculated for employees employed by more than one employing office? See infra (ii) on ''Employment by More Than One Office''.

(2) Whether there is ''good cause'' to believe that a regulation designating a uniform FMLA leave year within which ''eligible employees'' are entitled to take FMLA leave would be ''more effective'' for the implementation of the rights and protections of the CAA than the regulations promulgated by the Secretary which would permit employers to designate the 12-month period appropriate to their office?

(3) Whether, assuming that there is not ''good cause'' to designate a uniform FMLA leave year for all employing offices, the existence of non-uniform leave years by employing offices would affect the FMLA leave rights of ''eligible employees'' who are employed by more than one employing office? See infra (ii) on ''Employment by More Than One Office''.

The Board further seeks information on whether and to what extent policies and practices of the House of Representatives, the Senate, the Instrumentalities or any covered employing office exist that provide different FMLA rights and protections than would be provided under the CAA if the regulations promulgated by the Secretary were made applicable to such employees.

(ii) Employment by More Than One Office

In the context of the FMLA, the term ''covered employer'' has not been construed as limited to a single employer; it may include two or more employers of the same employee. Sections 825.106, 825.104(c)(2) and 825.107 of the regulations promulgated by the Secretary set forth factors to be considered in making a determination of whether a ''joint employment'', ''integrated employer'', or ''successor in interest'', respectively, relationship exists for the purposes of FMLA leave eligibility, job restoration and maintenance of health benefits responsibilities of employers.

The Board invites comment on whether and, if so, how the definitions of ''joint employer'', ''integrated employer'' or ''successor employer'' set forth in the regulations promulgated by the Secretary should be applied and/or modified to implement FMLA rights and protections under the CAA with respect to covered employees employed simultaneously or seriatim by more than one employing office during any relevant 12-month period.

Signed at Washington, D.C., on this 27th day of September, 1995.

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a notice of proposed rulemaking was submitted by the Office of Compliance, U.S. Congress. The notice relates to the Employee Polygraph Protection Act of 1988 and its applicability to the Capitol Police under the Congressional Accountability Act.

Section 304(b) requires this notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE

(The Congressional Accountability Act of 1995: Extension of Rights and Protections Under the Employee Polygraph Protection Act of 1988)

NOTICE OF PROPOSED RULEMAKING

Summary

This document contains proposed regulations authorizing the Capitol Police to use lie detector tests under Section 204(a)(3) and (c) of the Congressional Accountability Act of 1995 (''CAA''), P.L. 104–1. The proposed regulations set forth the recommendations of the Executive Director, Office of Compliance as approved by the Board of Directors, Office of Compliance.

The CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 204 extends the rights and protections of the Employee Polygraph Protection Act of 1988 [29 U.S.C. §§2001, et seq.] to covered employees and employing offices. The provisions of section 204 are effective January 23, 1996, one year after the effective date of the CAA.

The purpose of this proposed regulation is to authorize the Capitol Police to use lie detector tests with respect to its own employees.

Dates.—Comments are due on or before 30 days after the date of publication of this notice in the Congressional Record.

Addresses.—Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile (''FAX'') machine to (202) 252–3115. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact.—Executive Director, Office of Compliance at (202) 252–3100. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, (202) 244–2705.

Supplementary Information

Background and Summary

The Congressional Accountability Act of 1995 (''CAA'') was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees offices within the legislative branch. Section 204(a) and (b) of the CAA applies the rights and protections of the Employee Polygraph Protection Act of 1988, 29 U.S.C. §2001, et seq. (''EPPA'') to covered employees and employing offices. Section 204(c) authorizes the Board of Directors of the Office of Compliance (''Board'') established under the CAA to issue regulations implementing the section. Section 204(c) further states that such regulations ''shall be the same as substantive regulations issued by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b)

except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' Section 204(a)(3) provides that nothing in this section shall preclude the Capitol Police from using lie detector tests in accordance with regulations issued under section 204(c) of the CAA.

The Capitol Police is the primary law enforcement agency of the legislative branch. The proposed regulations would provide the Capitol Police with specific authorization to use lie detector tests. The limitations on the exclusion of the proposed regulation are derived from the Secretary of Labor's regulation implementing the exclusion for public sector employers under Section 7(a) of the EPPA (29 C.F.R. §801.10(d)), which limits the exclusion to the entity's own employees.

The Board issues concurrently with this proposed regulation a separate Advance Notice of Proposed Rulemaking which invites comment regarding a number of other regulatory issues, including what regulations, if any, the Board should issue to implement the remainder of Section 204.

Proposed Regulation—Exclusion for employees of the Capitol Police

None of the limitations on the use of lie detector tests by employing offices set forth in Section 204 of the CAA apply to the Capitol Police. This exclusion from the limitations of Section 204 of the CAA applies only with respect to Capitol Police employees. Except as otherwise provided by law or these regulations, this exclusion does not extend to contractors or nongovernmental agents of the Capitol Police, nor does it extend to the Capitol Police with respect to employees of a private employer or an otherwise covered employing office with which the Capitol Police has a contractual or other business relationship.

Recommended Method of Approval

The Board recommends that this regulation be approved by concurrent resolution in light of the nature of the work performed by the Capitol Police and the fact that neither the House of Representatives nor the Senate has exclusive responsibility for the Capitol Police.

Signed at Washington, D.C., on this 27th day of September 1995.

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

RATIFICATION OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Mr. PELL. Mr. President, I offer my congratulations to the conveners and participants of the Fourth World Conference on Women, held in Beijing this September, and the parallel NGO Forum on Women for promoting the human rights of women around the world. I would especially commend the members of the U.S. delegation to the Women's Conference, particularly First Lady Hillary Clinton and Ambassador Madeleine Albright, as well as the many others who contributed to its success.

The goal of this conference was to promote the advancement of women by identifying and overcoming the obstacles still facing women. In many parts of the world today, discrimination against women results in forced abortions, in the trafficking or forced prostitution of young girls, and in the denial of nutrition or health care, even to the point of infanticide. Women are also the primary victims of domestic violence or rape, and rape is increasingly being used as a tool of war in conflicts such as Bosnia, Cambodia, Liberia, Peru, Somalia, and Rwanda.

In many parts of the world, women are denied education, job training, or employment opportunities. Today, 64 percent of the world's illiterate and 70 percent of the world's population that lives in absolute poverty are women. Even when employed, women frequently face pay discrimination in the workplace. In too many countries, women are excluded from participating in policy-making or prevented by law from voting in elections.

Mr. President, the Women's Conference addressed all of these issues and called upon governments to commit to specific actions that would advance the status of women. The United States delegation made commitments that continue the long-standing tradition of U.S. leadership in the fight for equality for women and men. American commitments include: the creation of a White House Council on Women to coordinate the implementation of the Platform for Action within the U.S.; a new Justice Department initiative to fight domestic violence; increased resources for improving women's health; improved access for women to financial credit; and continued support for the human rights of all people.

Mr. President, I commend the Clinton administration for its continued efforts to promote the status of women at home and abroad. This year marks a historic point in the fight for women's equality. 1995 is the 75th anniversary of women's suffrage in the United States. It is also the fiftieth anniversary of the United Nations, whose Charter recognizes the equal rights of women and men. And of course, the success of this year's Fourth World Conference on Women has set a new agenda for the advancement of women. In this spirit, Mr. President, I believe it is time for the United States Senate to give its advice and consent to the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

The Women's Convention is the most comprehensive and detailed international agreement that promotes the equality of women and men. The Convention legally defines discrimination against women for the first time and establishes rights for women in areas not previously covered by international law. Today, 147 countries have ratified the Convention. The United States is the only industrialized democracy in the world that has failed to ratify the Convention.

Under my chairmanship, the Senate Foreign Relations Committee held three hearings on this important convention. On September 29, 1994, with my whole-hearted support, the Committee voted 13 to 5 to report favorably the Convention with a resolution of ratification to the Senate for its advice and consent. Despite support for ratification from many Members of Congress on both sides of the aisle, from the Clinton administration, and from the American public, opponents of ratification succeeded in blocking the Convention from reaching a vote in the Senate last year.

Mr. President, I believe the U.S. ratification of this Convention is important to demonstrate American commitment to eliminating all forms of discrimination against women both at home and abroad. Equally important, the United States should ratify the Convention in order to underscore the importance we assign to international efforts to promote and protect human rights. By failing to ratify the Women's Convention, the United States has rightfully encouraged criticism from allies who cannot understand our refusal to uphold rights that are already found within the provisions of our great Constitution. The United States cannot criticize other countries' violations of women's rights if we have not recognized those rights as international legal standards. The Women's Convention is an important human rights document that is consistent with the existing laws of the United States. Senate advice and consent to this Convention will demonstrate U.S. leadership in the fight for women's equality.

Finally, Mr. President, as we consider the appropriations bill for the State Department budget, I would emphasize the difficulties that funding cuts will produce in the work to promote human rights. Without adequate funding, the U.S. will be unable to continue to play a leadership role in the international effort to promote women's equality. The ability of the State Department to monitor human rights abuses, to participate in the work of the U.N. Human Rights Commission, to support NGOs in their human rights work, and to gather information on human rights violations would be severely threatened. Clearly, it is in the best interests of the United States to promote human rights and democracy in every country. Let us not lose our leadership role in the protection of human rights.

NATIONAL ENDOWMENT FOR THE HUMANITIES

Mr. PELL. Mr. President, I rise today to discuss the extraordinary impact of the National Endowment for the Humanities on my home state of Rhode Island. Rhode Island has long had a special relationship with the Endowments—ever since the President of Brown University, my old friend Barnaby Keeney, formed a Commission to investigate the possibility of a national support for study in the humanities.

The Commission returned with a forceful recommendation for the creation of such a program and in 1965 we created the National Endowment for the Humanities. Since that time, the Humanities Endowment has supported scholarly research, education and public programs concerned with history, literature, philosophy, language and other humanistic disciplines, and have helped to make the United States a leader in these fields of study. Programs have included both popular and scholarly works characterized by their singular excellence, including the Pulitzer Prize winning Slavery and Human Progress and programs such as ''The Civil War,'' ''Columbus and the Age of Discovery'' and ''Baseball.''

Barnaby Keeney, a decorated veteran and a medieval historian, left Brown University to become the first chairman of the National Endowment for the Humanities. Since then, Brown University has been in the forefront of research and study in humanities, recognized for its extraordinary excellence with repeated fellowships and grants for humanities research over the last thirty years. Rhode Island and the Nation as a whole have benefited enormously from this work. Mr. President, I would ask unanimous consent that two pieces by Edward Abrahams, director of government and community relations at Brown University—an op-ed article on the importance of the humanities that appeared recently in the Providence Journal and remarks delivered on Humanities Day—be printed in the RECORD.

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

[From The Providence Journal-Bulletin, Mar. 17, 1995]

LYNDON JOHNSON, BROWN AND THE BIRTH OF THE NEH

By Edward Abrahams

'A great nation (and a great civilization) feeds upon the depth of its scholarship—as well as the breath of its educational opportunity.'' So said President Lyndon Johnson at Brown University in 1964.

Today, in sharp contrast, the new Republican majority in Congress has targeted, among many other legislative accomplishments of Johnson's Great Society, the National Endowment for the Humanities. While President Clinton's budget would increase expenditures for the endowment by 3 percent, to $183 million, House Republicans, led by Newt Gingrich, say they intend to kill both NEH and its more controversial partner, the National Endowment for the Arts.

Because NEH has not been reauthorized for the past two years, most analysts concur that the effort to eliminate it could succeed. House Republicans have said that they do not intend to fund any programs that remain unauthorized. In fact, NEH will claim victory if it survives in its current configuration with a smaller budget. Indicative of things perhaps to come is the current drive to rescind $5 million from this year's budgets for both endowments.

Last year, the NEH spent about $150 million to help support research, education and cultural life in America, including $2.3 million in Rhode Island. Among the larger projects funded by the endowment at Brown in their joint effort to provide public service through education and research, for example, were a summer seminar for college teachers on *Piers Plowman* and *The Canterbury Tales,* a summer course for high school teachers on *The Tale of Gengi,* and the Women Writers Project. The last, matched by contributions from the university, seeks to ensure the inclusion of women's contributions to literature by rediscovering, encoding and sometimes publishing (with Oxford University Press) lost women's writing in English from 1330 to 1830.

The project has enabled scholars to study the development of the English language as well as pioneer the writing of computer codes for international transactions of information in business and technology.

Brown's relations with NEH have been notably close. The university's leaders were in fact present at the proposed creation of the endowment. In September 1964, President Lyndon Johnson traveled to Brown to receive an honorary degree, and announce that in his view ''national greatness'' required that ''there . . . be no neglect of the humanities.'' Johnson said that he ''look[ed] with the greatest favor upon the proposal [issued earlier in the year by Brown's] President [Barnaby] Keeney's Commission for the National Foundation for the Humanities.''

In language suggestive of another era, the Keeney Commission had recommended the creation of a federal foundation to support ''whatever understanding can be attained . . . of such enduring values as justice, freedom, virtue, beauty, and truth.'' Within months of Johnson's address, with the help of Sen. Claiborne Pell (who is regarded as the father of both endowments) in the Senate and John Brademas in the House, Johnson pushed through Congress the act that established both NEH and NEA.

In 1966, Keeney, a decorated veteran and a medieval historian, left Brown's presidency to become the first chairman of NEH.

After Vietnam and Watergate, few intellectuals on either side of the political spectrum find much firepower in the old-fashioned liberal rhetoric that Keeney and Johnson both used to launch their hope of providing modest federal funds to promote education and research in the humanities. But in 1964 most Americans felt that the humanities and the arts not only could enrich their lives, but that they also could contribute to realizing the promise of American life, which they did not then, and perhaps do not today, see only in materialist terms.

Without faith in the inherent national significance of the mission of universities like Brown, not to mention the federal government, it becomes difficult to defend, let alone advance, the public commitment Johnson legislatively harnessed only 30 years ago to support scholarship and public programming and, with the passage of the Higher Education Act in 1965, begin to provide universal access to higher education. All have come under considerable pressure for years. They are threatened even more by the new Congress.

The attacks on both endowments are serious, far out of proportion to the insignificant amount of federal dollars in a $1.6 trillion budget they channel to such projects as rediscovering lost literature or teaching high school and college teachers medieval literature. They suggest that we have lost confidence in our national institutions to solve collective problems or to give us a sense of identity or direction.

HUMANITIES DAY

''Our cultural institutions are an essential national resource; they must be kept strong.'' So said President Reagan in 1981.

For over three decades, one of the most important agencies that has helped keep them strong has been the National Endowment for the Humanities. That is why the Association of American Universities, which I represent here today, unequivocally supports full funding for the Endowment. An association of 60 universities represented in almost all fifty states, the AAU is committed to advancing research and education in America.

NEH has more than fulfilled its mission. It has, in the parlance of our budget conscious era, offered an impressive return on the investment of public dollars. Every President and every Congress since 1965 has supported NEH. They have done so because they have understand that a free and good government, in Jefferson's words, depends on an enlightened citizenry.

A single controversial project should not blind us from seeing how well NEH has advanced culture and learning in America, while helping us also conserve our nation's heritage and preserve its memory.

I have here a list which is also available to you. It is a representative sample of NEH-sponsored projects at America's colleges and universities. Permit me to mention three.

At Rice University in Texas, an NEH grant enables scholars there to compile and edit a seven-volume series of Jefferson Davis' papers.

At the University of Mississippi an NEH grant facilitated a ''Memories of Mississippi'' exhibit that recorded ordinary citizens' recollections of the Depression era in the northern part of that state.

And at Ohio State University NEH funds are assisting secondary school teachers' efforts to integrate Arabic language and culture courses in local high schools.

What these projects have in common is that they make our nation stronger through the advancement of knowledge, culture, and education.

In brief, we need to understand—and we need to make our elected representatives understand—that if NEH is disproportionately cut, America's cultural institutions will not be kept strong. They will bleed.

MESSAGES FROM THE HOUSE

At 12:33 p.m., a message from the House of Representatives, delivered by M, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2288. An act to amend part D of title IV of the Social Security Act to extend for 2 years the deadline by which States are required to have in effect an automated data processing and information retrieval system for use in the administration of State plans for child and spousal support.

H.R. 2404. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until November 1, 1995, and for other purposes.

H.J. Res. 108. Joint Resolution making continuing appropriations for the fiscal year 1996, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 2288. An act to amend part D of title IV of the Social Security Act to extend for 2 years the deadline by which States are required to have in effect an automated data processing and information retrieval system

for use in the administration of State plans for child and spousal support; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1472. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–16; to the Committee on Appropriations.

EC–1473. A communication from the Deputy Assistant Secretary (Communication, Computers, and Support Systems), the Department of the Air Force, transmitting, notification of a cost comparison; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following report of committee was submitted on September 27, 1995:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S.J. Res. 31: A joint resolution proposing an amendment to the Constitution of the United States to grant Congress and the States the power to prohibit the physical desecration of the flag of the United States (Rept. No. 104–148).

The following report of committee was submitted on September 28, 1995:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled ''Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1996'' (Rept. No. 104–149).

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. MACK:

S. 1280. A bill to amend the Internal Revenue Code of 1986 to provide all taxpayers with a 50-percent deduction for capital gains, to index the basis of certain assets, and to allow the capital loss deduction for losses on the sale or exchange of an individual's principal residence; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1281. 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 *Sarah-Christen*; to the Committee on Commerce, Science, and Transportation.

S. 1282. 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 *Triad*; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCONNELL:

S. 1283. A bill to authorize the Secretary of Agriculture to regulate the commercial transportation of horses for slaughter, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 1284. A bill to amend title 17 to adapt the copyright law to the digital, networked environment of the National Information Infrastructure, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WARNER (for himself and Mr. FORD):

S. Res. 176. A resolution relating to expenditures for official office expenses; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1281. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in coastwise trade for the vessel *Sarah-Christen*; to the Committee on Commerce, Science, and Transportation.

JONES ACT WAIVER LEGISLATION

● Mr. KERRY. Mr. President, I am pleased to join my colleague, the distinguished senior Senator from Massachusetts, in introducing a bill to allow the vessel *Sarah-Christen* to be employed in coastwise trade of the United States. This boat has a small passenger capacity, carrying up to 12 passengers in a charter business. The purpose of this bill is to waive those sections of the Jones Act which prohibit foreign-made vessels from operating in coastwise trade. The waiver is necessary because, under the law, a vessel is not considered built in the United States unless all major components of its hull and superstructures are fabricated in the United States, and the vessel is assembled entirely in the United States. This vessel was originally built in a foreign shipyard in 1971, but since then has been owned and operated by American citizens, repaired in American shipyards, and maintained with American products. The owner of the vessel simply wishes to start a small business, a charter boat operation, seasonally taking people out for cruises.

After reviewing the facts in the case of the *Sarah-Christen*, I find that this wavier does not compromise our national readiness in times of national emergency, which is the fundamental purpose of the Jones Act requirement. While I generally support the provisions of the Jones Act, I believe the specific facts in this case warrant a waiver to permit the *Sarah-Christen* to engage in coastwise trade. These include the facts the vessel is more than 20 years old, the owner has invested significant funds in vessel maintenance and restoration in the United States, and the vessel has a relatively small passenger-carrying capacity. I hope and trust the Senate will agree and will speedily approve the bill being introduced today.●

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1282. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in coastwise trade for the vessel *Triad;* to the Committee on Commerce, Science, and Transportation.

JONES ACT WAIVER LEGISLATION

● Mr. KERRY. Mr. President, I am pleased to join my colleague, the distinguished senior Senator from Massachusetts, in introducing a bill to allow the vessel *Triad* to be employed in coastwise trade of the United States. This boat has a small passenger capacity, carrying up to 6 passengers in a charter business. The purpose of this bill is to waive those sections of the Jones Act which prohibit foreign-made vessels from operating in coastwise trade. The waiver is necessary because, under the law, a vessel is not considered built in the United States unless all major components of its hull and superstructure are fabricated in the United States, and the vessel is assembled entirely in the United States. This vessel was originally built in a foreign shipyard in 1982, but since 1992 it has been owned and operated by American citizens, repaired in American shipyards, and maintained with American products. The owner of the vessel now wishes to start a small business, a charter boat operation, seasonally taking people out for cruises.

After reviewing the facts in the case of the *Triad* I find that this waiver would not compromise our national readiness in times of national emergency, which is the fundamental purpose of the Jones Act requirement. While I generally support the provisions of the Jones Act, I believe the specific facts in this case warrant a waiver to permit the *Triad* to engage in coastwise trade. These include the facts the vessel is more than 10 years old, the owner has invested significant funds in vessel maintenance and restoration in the United States and the vessel has a relatively small passenger-carrying capacity. I hope and trust the Senate will agree and will speedily approve the bill being introduced today.●

By Mr. MCCONNELL:

S. 1283. A bill to authorize the Secretary of Agriculture to regulate the commercial transportation of horses, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE HUMANE METHODS OF LIVESTOCK SLAUGHTER ACT AMENDMENTS ACT OF 1995

● Mr. MCCONNELL. Mr. President, last year I introduced legislation amending the Federal Humane Methods of Livestock Slaughter Act to regulate the commercial transportation of horses to slaughter facilities. After considerable discussion and much mail on this important issue, I have made several modifications to the original bill. Today, I am introducing legislation that will provide greater oversight and

integrity concerning the commercial transportation of horses to slaughter facilities.

I am pleased that my bill is supported by the American Horse Council, and the American Horse Protection Association. Other organizations that support this legislation include the American Association of Equine Practitioners, the American Humane Association, the American Society for Prevention of Cruelty to Animals, and the Humane Society of the United States.

Currently, some horses are being transported for long periods in overcrowded conditions without rest, food, or water. Some vehicles used for transport have inadequate headroom and are not intended to transport large animals. Further, some of the horses transported have serious injuries which can be severely aggravated by the journey. This legislation would give the Secretary of Agriculture the authority to correct these practices by regulating those in the business of transporting horses to processing facilities.

I want to make it clear that it is not my intention to either promote or prevent the commercial slaughter of horses. This industry has been in existence for a long time in this country, and I expect that it will continue to operate long into the future. My purpose in this legislation is to protect horses from unduly harsh and unpleasant treatment as they are transported across the country.

Horses occupy a central role in the traditions, history, and economy of Kentucky. Thousands of Kentuckians are employed either directly or indirectly by the horse industry. Horses have been good to Kentucky; and we should try to the maximum practical extent to be good to horses.

This bill would require that horses be rested off the vehicle after 24 hours, with access to food and water. Vehicles used to transport the horses would have to have adequate headroom and interiors free of sharp edges. Transporting vehicles must be maintained in a sanitary condition, offer adequate ventilation and shelter from extremes of heat and cold, be large enough for the number of horses transported, and allow for the position of horses by size, with stallions segregated from other horses. Finally, in order to be transported, horses must be physically fit to travel.

Enforcement of the Act is placed with the U.S. Department of Agriculture, which presently regulates the slaughter process itself under the Humane Methods of Slaughter Act. The Department would be authorized to work with State and local authorities to enforce the provisions of this bill. This bill, while correcting abuses that exist, will not be an excessive burden on the processing facilities, auctions, or the commercial transporters of these horses.

Unlike other livestock, the transportation of horses to processing facilities is often a lengthy process, because there are fewer facilities that handle horses and they are located in only a few areas. Moreover, not all of them operate on a full-time basis. The result is that the transporting of these animals requires special protection.

There are several States that have passed legislation to regulate the transportation of these horses, but most of the travel is interstate, across wide areas. This is why Federal legislation is needed. The shipment of horses over long distances in inappropriate trailers, without food or water, is unacceptable. This bill would extend Federal regulation to the commercial transport of horses to slaughter and assure the humane and safe conditions of that transport.

I invite all groups that are concerned about these horses to work with me in passing this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1283

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 ''Safe Commercial Transportation of Horses for Slaughter Act of 1995''.

SEC. 2. COMMERCIAL TRANSPORTATION OF HORSES FOR SLAUGHTER.

Public Law 85–765 (7 U.S.C. 1901 et seq.) is amended by adding at the end the following:

''TITLE II—COMMERCIAL TRANSPORTATION OF HORSES FOR SLAUGHTER

••••••••••••••••§¶x•—ContinuedS 14548

''SEC. 201. FINDINGS.

''Congress finds that, to ensure that horses sold for slaughter are provided human treatment and care, it is essential to regulate the transportation, care, handling, and treatment of horses by any person engaged in the commercial transportation of horses for slaughter.

''SEC. 202. DEFINITIONS.

''In this title:

''(1) COMMERCE.—The term 'commerce' means trade, traffic, transportation, or other commerce—

''(A) between any State, territory, or possession of the United States, or the District of Columbia, and any place outside thereof;

''(B) between points within the same State, territory, or possession of the United States, or the District of Columbia, but through any place outside thereof; or

''(C) within any territory or possession of the United States or the District of Columbia.

''(2) DEPARTMENT.—The term 'Department' means the United States Department of Agriculture.

''(3) EQUINE.—The term 'equine' includes any member of the Equidae family.

''(4) FOAL.—The term 'foal' means a horse that is not more than 6 months of age.

''(5) HORSE.—The term 'horse' includes any member of the Equidae family.

''(6) HORSE FOR SLAUGHTER.—The term 'horse for slaughter' means any horse that is transported, or intended to be transported, to a slaughter facility or intermediate handler from a sale, auction, or intermediate handler by a person engaged in the business of transporting horses for slaughter.

''(7) INTERMEDIATE HANDLER.—The term 'intermediate handler' means any person engaged in the business of receiving custody of horses for slaughter in connection with the transport of the horses to a slaughter facility, including a stockyard, feedlot, or assembly point.

''(8) PERSON.—The term 'person' includes any individual, partnership, firm, company, corporation, or association.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(10) VEHICLE.—The term 'vehicle' means any machine, truck, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and used on a highway in the commercial transportation of horses for slaughter.

''(11) STALLION.—The term 'stallion' means any uncastrated male horse that is 1 year of age or older.

''SEC. 203. STANDARDS FOR HUMANE COMMERCIAL TRANSPORTATION OF HORSES FOR SLAUGHTER.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this title, the Secretary shall issue, by regulation, standards for the humane commercial transportation of horses for slaughter.

''(b) PROHIBITION.—No person shall transport in commerce, to a slaughter facility or intermediate handler, a horse for slaughter except in accordance with the standards and this title.

''(c) MINIMUM REQUIREMENTS.—The standards shall include minimum requirements for the humane handling, care, treatment, and equipment necessary to ensure the safe and humane transportation of horses for slaughter. The standards shall require, at a minimum, that—

''(1) no horse for slaughter shall be transported for more than 24 hours without being unloaded from the vehicle and allowed to rest for at least 8 consecutive hours and given access to adequate quantities of wholesome food and potable water;

''(2) a vehicle shall provide adequate headroom for a horse for slaughter with a minimum of at least 6 feet, 6 inches of headroom from the roof and beams or other structural members overhead to floor underfoot, except that a vehicle transporting 6 horses or less shall provide a minimum of at least 6 feet of headroom from the roof and beams or other structural members overhead to floor underfoot if none of the horses are over 16 hands;

''(3) the interior of a vehicle shall—

''(A) be free of protrusions, sharp edges, and harmful objects;

''(B) have ramps and floors that are adequately covered with a nonskid nonmetallic surface; and

''(C) be maintained in a sanitary condition;

''(4) a vehicle shall—

''(A) provide adequate ventilation and shelter from extremes of weather and temperature for all equine;

''(B) be of appropriate size, height, and interior design for the number of equine being carried to prevent overcrowding; and

''(C) be equipped with doors and ramps of sufficient size and location to provide for safe loading and unloading, including unloading during emergencies;

''(5)(A) horses shall be positioned in the vehicle by size; and

''(B) stallions shall be segregated from other horses;

''(6)(A) all horses for slaughter must be fit to travel as determined by an accredited large animal veterinarian, who shall prepare a certificate of inspection, prior to loading for transport, that—

''(i) states that the horses were inspected and satisfied the requirements of subparagraph (B);

''(ii) includes a clear description of each horse; and

''(iii) is valid for 7 days;

''(B) no horse shall be transported to slaughter if the horse is found to be—

''(i) suffering from a broken or dislocated limb;

''(ii) unable to bear weight on all 4 limbs;

''(iii) blind in both eyes; or

''(iv) obviously suffering from severe illness, injury, lameness, or physical debilitation that would make the horse unable to withstand the stress of transportation;

''(C) no foal may be transported for slaughter;

''(D) no mare in foal that exhibits signs of impending partition may be transported for slaughter; and

''(E) no horse for slaughter shall be accepted by a slaughter facility unless the horse is accompanied by a certificate of inspection issued by an accredited large animal veterinarian, not more than 7 days before the delivery, stating that the veterinarian inspected the horse on a specified date.

''SEC. 204. RECORDS.

''(a) IN GENERAL.—A person engaged in the business of transporting horses for slaughter shall establish and maintain such records, make such reports, and provide such information as the Secretary may, by regulation, require for the purposes of carrying out, or determining compliance with, this subtitle.

''(b) MINIMUM REQUIREMENTS.—The records shall include, at a minimum—

''(1) the veterinary certificate of inspection;

''(2) the names and addresses of current owners and consignors, if applicable, of the horses at the time of sale or consignment to slaughter; and

''(3) the bill of sale or other documentation of sale for each horse.

''(c) AVAILABILITY.—The records shall—

''(1) accompany the horses during transport to slaughter;

''(2) be retained by any person engaged in the business of transporting horses for slaughter for a reasonable period of time, as determined by the Secretary; and

''(3) on request of an officer or employee of the Department, be made available at all reasonable times for inspection and copying by the officer or employee.

''SEC. 205. AGENTS.

''(a) IN GENERAL.—For purposes of this title, the act, omission, or failure of an individual acting for or employed by a person engaged in the business of transporting horses for slaughter, within the scope of the employment or office of the individual, shall be considered the act, omission, or failure of the person engaging in the commercial transportation of horses for slaughter as well as of the individual.

''(b) ASSISTANCE.—If a horse suffers a substantial injury or illness while being transported for slaughter on a vehicle, the driver of the vehicle should seek prompt assistance from a large animal veterinarian.

''SEC. 206. COOPERATIVE AGREEMENTS.

''Not later than 180 days after the date of enactment of this title, the Secretary shall, to the maximum extent practicable, establish cooperative agreements and enter into memoranda of agreement with appropriate Federal and State agencies or political subdivisions of the agencies, including State departments of agriculture, State law enforcement agencies, and foreign governments, to carry out and enforce this title.

''SEC. 207. INVESTIGATIONS AND INSPECTIONS.

''(a) IN GENERAL.—The Secretary shall make such investigations or inspections as the Secretary considers necessary—

''(1) to enforce this title (including any regulation issued under this title); and

''(2) pursuant to information regarding alleged violations of this title provided to the Secretary by a State official or any other person.

''(b) ACCESS.—For the purposes of conducting an investigation or inspection under subsection (a), the Secretary shall, at all reasonable times, have access to—

''(1) the place of business of any person engaged in the business of transporting horses for slaughter;

''(2) the facilities and vehicles used to transport the horses; and

''(3) records required to be maintained under section 204.

''(c) MINIMUM REQUIREMENT.—An investigation or inspection shall include, at a minimum, an inspection by an employee of the Department of all horses and vehicles carrying horses, on the arrival of the horses and vehicles at the slaughter facility.

''(d) ASSISTANCE TO OR DESTRUCTION OF HORSES.—The Secretary shall issue such regulations as the Secretary considers necessary to permit employees or agents of the Department to—

''(1) provide assistance to any horse that is covered by this title (including any regulation issued under this title); or

''(2) destroy, in a humane manner, any such horse found to be suffering.

''SEC. 208. INTERFERENCE WITH ENFORCEMENT.

''(a) IN GENERAL.—Subject to subsection (b), a person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of an official duty of the person under this title shall be fined not more than $5,000 or imprisoned not more than 3 years, or both.

''(b) WEAPONS.—If the person uses a deadly or dangerous weapon in connection with an action described in subsection (a), the person shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

''SEC. 209. JURISDICTION OF COURTS.

''Except as provided in section 210(a)(5), a district court of the United States in any appropriate judicial district under section 1391 of title 28, United States Court, shall have jurisdiction to specifically enforce this title, to prevent and restrain a violation of this title, and to otherwise enforce this title.

''SEC. 210. CIVIL AND CRIMINAL PENALTIES.

''(a) CIVIL PENALTIES.—

''(1) IN GENERAL.—A person who violates this title (including a regulation or standard issued under this title) shall be assessed a civil penalty by the Secretary of not more than $2,000 for each violation.

''(2) SEPARATE OFFENSES.—Each horse transported in violation of this title shall constitute a separate offense. Each violation and each day during which a violation continues shall constitute a separate offense.

''(3) HEARINGS.—No penalty shall be assessed under this subsection unless the person who is alleged to have violated this title is given notice and opportunity for a hearing with respect to an alleged violation.

''(4) FINAL ORDER.—An order of the Secretary assessing a penalty under this subsection shall be final and conclusive unless the aggrieved person files an appeal from the order pursuant to paragraph (5).

''(5) APPEALS.—Not later than 30 days after entry of a final order of the Secretary issued pursuant to this subsection, a person aggrieved by the order may seek review of the order in the appropriate United States Court of Appeals. The Court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the order.

''(6) NONPAYMENT OF PENALTY.—On a failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which the person is found, resides, or transacts business, to collect the penalty. The court shall have jurisdiction to hear and decide the action.

''(b) CRIMINAL PENALTIES.—

''(1) FIRST OFFENSE.—Subject to paragraph (2), a person who knowingly violates this title (or a regulation or standard issued under this title) shall, on conviction of the violation, be subject to imprisonment for not more than 1 year or a fine of not more than $2,000, or both.

''(2) SUBSEQUENT OFFENSES.—On conviction of a second or subsequent offense described in paragraph (1), a person shall be subject to imprisonment for not more than 3 years or to a fine of not more than $5,000, or both.

''SEC. 211. PAYMENTS FOR TEMPORARY OR MEDICAL ASSISTANCE FOR HORSES DUE TO VIOLATIONS.

''From sums received as penalties, fines, or forfeitures of property for any violation of this title (including a regulation issued under this title), the Secretary shall pay the reasonable and necessary costs incurred by any person in providing temporary care or medical assistance for any horse that needs the care or assistance due to a violation of this title.

''SEC. 212. RELATIONSHIP TO STATE LAW.

''Nothing in this title prevents a State from enacting or enforcing any law (including a regulation) that is not inconsistent with this title or that is more restrictive than this title.

''SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated for each fiscal year such sums as are necessary to carry out this title.''.

SEC. 3. CONFORMING AMENDMENTS.

(a) The first section of Public Law 85–765 (7 U.S.C. 1901) is amended by striking ''That the Congress'' and inserting the following:

''SEC. 1. SHORT TITLE.

''This Act may be cited as the 'Federal Humane Methods of Livestock Slaughter Act'.

''TITLE I—HUMANE METHODS OF LIVESTOCK SLAUGHTER

''SEC. 101. FINDINGS AND DECLARATION OF POLICY.

''Congress''.

(b) Section 2 of the Federal Humane Methods of Livestock Slaughter Act (7 U.S.C. 1902) is amended by striking ''SEC. 2. No'' and inserting the following:

''SEC. 102. HUMANE METHODS.

''No''.

(c) Section 4 of the Act (7 U.S.C. 1904) is amended by striking ''SEC. 4. In'' and inserting the following:

''SEC. 103. METHODS RESEARCH.

''In''.

(d) Section 6 of the Act (7 U.S.C. 1906) is amended by striking ''SEC. 6. Nothing'' and inserting the following:

''SEC. 104. EXEMPTION OF RITUAL SLAUGHTER.

''Nothing''.

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective 180 days after the date of enactment of this Act.

(b) REGULATIONS.—As soon as practicable, but not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue such regulations as the Secretary determines are necessary to implement this Act and the amendments made by this Act.

(c) COMPLIANCE.—A person shall be required to comply with—

(1) sections 203 and 204 of the Federal Humane Methods of Livestock Slaughter Act (as added by section 2) beginning on the date

that is 180 days after the date of enactment of this Act; and

(2) other sections of title II of the Act beginning on the date that is 90 days after the Secretary issues final regulations under subsection (b).●

By Mr. HATCH (for himself and Mr. LEAHY):

S. 1284. A bill to amend title 17 to adapt the copyright to the digital, networked environment of the National Information Infrastructure, and for other purposes; to the Committee on the Judiciary.

THE NATIONAL INFORMATION INFRASTRUCTURE COPYRIGHT PROTECTION ACT

Mr. HATCH. Mr. President, today, together with my distinguished colleague from Vermont, Senator LEAHY, I am introducing the National Information Infrastructure Copyright Protection Act of 1995, which amends the Copyright Act to bring it up to date with the digital communications age.

The National Information Infrastructure or ''NII'' is a fancy name for what is popularly known as the ''information highway.'' Probably most people today experience the information highway by means of their computers when they use electronic mail or subscribe to a bulletin board service or use other on-line services. But these existing services are only dirt roads compared to the superhighway of information-sharing which lies ahead.

The NII of the future will link not only computers, but also telephones, televisions, radios, fax machines, and more into an advanced, high-speed, interactive, broadband, digital communications system. Over this information superhighway, data, text, voice, sound, and images will travel, and their digital format will permit them not only to be viewed or heard, but also to be copied and manipulated. The digital format will also ensure that copies will be perfect reproductions, without the degradation that normally occurs today when audio and videotapes are copied.

The NII has tremendous potential to improve and enhance our lives, by providing quick, economical, and high-quality access to information that educates and entertains as well as informs. When linked up to a ''Global Information Infrastructure,'' the NII will broaden our cultural experiences, and allow American products to be more widely disseminated.

Highways, of course, are meant to be used, and in order to be used, they must be safe. That's why we have ''rules of the road'' on our asphalt highways and that's why we need rules for our digital highway. No manufacturer would ship his or her goods on a highway if his trucks were routinely hijacked and his or her goods plundered. Likewise, no producer of intellectual property will place his or her works on the information superhighway if they are routinely pirated. We might end up having enormous access to very little information, unless we can protect property rights in intellectual works. The piracy problem is particularly acute in the digital age where perfect copies can be made quickly and cheaply.

Protecting the property rights of the owners of intellectual property not only induces them to make their products available, it also encourages the creation of new products. Our copyright laws are based on the conviction that creativity increases when authors can reap benefits of their creative activity.

But the NII also promises to increase creativity in a more dramatic way by providing individual creators with public distribution of their works outside traditional channels. For example, authors who have been unsuccessful in finding a publisher will be able to distribute their works themselves to great numbers of people at very low cost.

The bill that I am introducing today begins the process of designing the rules of the road for the information superhighway. It was drafted by the Working Group on Intellectual Property Rights of the Information Infrastructure Task Force. Chaired by the Honorable Bruce A Lehman, Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, the Working Group labored for 2 years examining the intellectual property implications of the NII to determine if changes were necessary to intellectual property law and to recommend appropriate statutory language.

The Working Group drew upon the expertise of 26 departments and agencies of the Federal Government; it heard the testimony of 30 witnesses and received some 70 written statements from all interested parties. On July 7, 1994, it produced a preliminary draft (''Green Paper''), which opened another period of extensive testimony and comment. The Final Report, containing a draft of the legislation that I am introducing today, was unveiled on September 5, 1995.

The length and scope of the Working Group's investigation would alone commend its recommendations to serious attention, but I have also studied the legislation and find it an excellent basis for the Committee on the Judiciary to begin its own examination of the issues with a view to fine-tuning the solutions proposed by the Working Group.

The bill deals with five major areas:

(1) transmission of copies,

(2) exemptions for libraries and the visually impaired,

(3) copyright protection systems,

(4) copyright management information, and

(5) remedies.

In general, the bill provides as follows:

Transmission of Copies. The bill makes clear that the right of public distribution in the Copyright Act applies to transmission of copies and phonorecords of copyrighted works. For example, this means that transmitting a copy of a computer program from one computer to ten other computers without permission of the copyright owner would ordinarily be an infringement.

Exemptions for Libraries and the Visually Impaired. The bill amends the current exemption for libraries to allow the preparation of three copies of works in digital format, and it authorizes the making of a limited number of digital copies by libraries and archives for purposes of preservation.

The bill adds a new exemption for non-profit organizations to reproduce and distribute to the visually impaired—at cost—Braille, large type, audio or other editions of previously published literary works, provided that the owner of the exclusive right to distribute the work in the United States has not entered the market for such editions during the first year following first publication.

Copyright Protection Systems. The bill adds a new section which prohibits the importation, manufacture or distribution of any device or product, or the provision of any service, the primary purpose or effect of which is to deactivate any technological protections which prevent or inhibit the violation of exclusive rights under the copyright law.

Copyright Management Information. ''Copyright management information'' is information that identifies the author of the work, the copyright owner, the terms and conditions for uses of the work, and other information that the Register of Copyrights may prescribe. The bill prohibits the dissemination of copyright management information known to be false and the unauthorized removal or alteration of copyright management information.

Remedies. The bill provides for civil penalties for circumvention of copyright protection systems and for tampering with copyright management information, including injunction, impoundment, actual or statutory damages, costs, attorney's fees, and the modification or destruction of products and devices.

The bill provides criminal penalties for tampering with copyright management information—a fine of not more than $500,000 or imprisonment of not more than 5 years or both.

There is widespread support for the general thrust of the bill among interested parties. However, during the hearing process, I am sure that issues will arise that no one has yet anticipated. Already, some potential discussion points have been identified: the scope of the library exemption and the exemption for the visually impaired, the absence of criminal penalties for circumvention of copyright protection systems, the use of encryption as a copyright protection system, the application of the doctrine of fair use, the development of efficient licensing models, and the liability of on-line service providers.

In the interest of time, it may be that fuller discussion and solution may

have to be deferred for those points not covered expressly in the bill. The fully commercial information superhighway is not yet here, and we must resign ourselves to a period of experimentation. We want to be on the cutting edge, not the bleeding edge of new technology.

Once again, I would like to commend the Working Group on Intellectual Property Rights of the Information Infrastructure Task Force for providing an excellent model for us to work with. I also recommend to all interested parties that they read the full report of the Working Group. Without endorsing any of the specific language of that report, I believe that it provides useful background material for the recommended changes.

In conclusion, Mr. President, I would like to thank my colleague from Vermont, Senator LEAHY, for joining me in introducing this important legislation.

Mr. President, I ask unanimous consent that a copy of this bill be printed in the RECORD.

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

S. 1284

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 ''NII Copyright Protection Act of 1995''.

SEC. 2. TRANSMISSION OF COPIES.

(a) DISTRIBUTION.—Section 106(3) of title 17, United States Code, is amended by striking ''or by rental, lease, or lending'' and inserting ''by rental, lease, or lending, or by transmission''.

(b) DEFINITIONS.—Section 101 of title 17, United States Code, is amended—

(1) in the definition of ''publication'' by striking ''or by rental, lease, or lending'' in the first sentence and insert ''by rental, lease, or lending, or by transmission''; and

(2) in the definition of ''transmit'' by inserting at the end thereof the following: ''To 'transmit' a reproduction is to distribute it by any device or process whereby a copy or phonorecord of the work is fixed beyond the place from which it was sent.''.

(c) IMPORTATION.—Section 602 of title 17, United States Code, is amended by inserting ''whether by carriage of tangible goods or by transmission,'' after ''Importation into the United States,''.

SEC. 3. EXEMPTIONS FOR LIBRARIES AND THE VISUALLY IMPAIRED.

(a) LIBRARIES.—Section 108 of title 17, United States Code, is amended—

(1) in subsection (a) by deleting ''one copy or phonorecord'' and inserting in lieu thereof ''three copies or phonorecords'';

(2) in subsection (a) by deleting ''such copy or phonorecord'' and inserting in lieu thereof ''no more than one of such copies or phonorecords'';

(3) by inserting at the end of subsection (a)(3) ''if such notice appears on the copy or phonorecord that is reproduced under the provisions of this section'';

(4) in subsection (b) by inserting ''or digital'' after ''facsimile'' and by inserting ''in facsimile form'' before ''for deposit for research use''; and

(5) in subsection (c) by inserting ''or digital'' after ''facsimile''.

(b) VISUALLY IMPAIRED.—Title 17, United States Code, is amended by adding the following new section:

''§ 108A. Limitations on exclusive rights: Reproduction for the Visually Impaired

''Notwithstanding the provision of section 106, it is not an infringement of copyright for a non-profit organization to reproduce and distribute to the visually impaired, at cost, a Braille, large type, audio or other edition of a previously published literary work in a form intended to be perceived by the visually impaired, provided that, during a period of at least one year after the first publication of a standard edition of such work in the United States, the owner of the exclusive right to distribute such work in the United States has not entered the market for editions intended to be perceived by the visually impaired.''

SEC. 4. COPYRIGHT PROTECTION SYSTEMS AND COPYRIGHT MANAGEMENT INFORMATION.

Title 17, United States Code, is amended by adding the following new chapter:

''CHAPTER 12.—COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS

''Sec.
''1201. Circumvention of Copyright Protection Systems
''1202. Integrity of Copyright Management Information
''1203. Civil Remedies
''1204. Criminal Offenses and Penalties

§ 1201. Circumvention of Copyright Protection Systems

''No person shall import, manufacture or distribute any device, product, or component incorporated into a device or product, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent, without the authority of the copyright owner or the law, any process, treatment, mechanism or system which prevents or inhibits the violation of any of the exclusive rights of the copyright owner under section 106.

§ 1202. Integrity of Copyright Management Information

''(a) FALSE COPYRIGHT MANAGEMENT INFORMATION.—No person shall knowingly provide copyright management information that is false, or knowingly publicly distribute or import for public distribution copyright management information that is false.

''(b) REMOVAL OR ALTERATION OF COPYRIGHT MANAGEMENT INFORMATION.—No person shall, without authority of the copyright owner or the law, (i) knowingly remove or alter any copyright management information, (ii) knowingly distribute or import for distribution copyright management information that has been altered without authority of the copyright owner or the law, or (iii) knowingly distribute or import for distribution copies or phonorecords from which copyright management information has been removed without authority of the copyright owner or the law.

''(c) DEFINITION.—As used in this chapter, ''copyright management information'' means the name and other identifying information of the author of a work, the name and other identifying information of the copyright owner, terms and conditions for uses of the work, and such other information as the Register of Copyrights may prescribe by regulation.

§ 1203. Civil Remedies

''(a) CIVIL ACTIONS.—Any person injured by a violation of Sec. 1201 or 1202 may bring a civil action in an appropriate United States district court for such violation.

''(b) POWERS OF THE COURT.—In an action brought under subsection (a), the court—

''(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain a violation;

''(2) at any time while an action is pending, may order the impounding, on such terms as it deems reasonable, of any device or product that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation;

''(3) may award damages under subsection (c);

''(4) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof;

''(5) in its discretion may award reasonable attorney's fees to the prevailing party; and

''(6) may, as part of a final judgment or decree finding a violation, order the remedial modification or the destruction of any device or product involved in the violation that is in the custody or control of the violator or has been impounded under subsection (2).

''(c) AWARDS OF DAMAGES.—

''(1) IN GENERAL.—Except as otherwise provided in this chapter, a violator is liable for either (i) the actual damages and any additional profits of the violator, as provided by subsection (2) or (ii) statutory damages, as provided by subsection (3).

''(2) ACTUAL DAMAGES.—The court shall award to the complaining party the actual damages suffered by him or her as a result of the violation, and any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages, if the complaining party elects such damages at any time before final judgment is entered.

''(3) STATUTORY DAMAGES.—

''(A) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1201 in the sum of not less than $200 or more than $2,500 per device, product, offer or performance of service, as the court considers just.

''(B) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1202 in the sum of not less than $2,500 or more than $25,000.

''(4) REPEATED VIOLATIONS.—In any case in which the injured party sustains the burden of proving, and the court finds, that a person has violated section 1201 or 1202 within three years after a final judgment was entered against that person for another such violation, the court may increase the award of damages up to triple the amount that would otherwise be awarded, as the court considers just.

''(5) INNOCENT VIOLATIONS.—The court in its discretion may reduce or remit altogether the total award of damages in any case in which the violator sustains the burden of proving, and the court finds, that the violator was not aware and had no reason to believe that its acts constituted a violation.

§ 1204. Criminal Offenses and Penalties

''Any person who violates section 1202 with intent to defraud shall be fined not more than $500,000 or imprisoned for not more than 5 years, or both.''

SEC. 5. CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 17, United States Code, is amended by inserting after the item relating to section 108 the following:

''108A. Limitations on exclusive rights: Reproduction for the Visually Impaired.''

(b) TABLE OF CHAPTERS.—The table of chapters for title 17, United States Code, is amended by adding at the end the following:

''12. COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS. ..... 1201''.

SEC. 6. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, I join today in the introduction of the ''NII Copyright Protection Act.'' This bill reflects the effort of the Working Group on Intellectual Property Rights, chaired by Assistant Secretary of Commerce and Commissioner of Patents and Trademarks Bruce A. Lehman. The Working Group included key Federal agencies in consultation with the private sector, public interest groups and State and local governments. Its examination of the intellectual property implications of the National Information Infrastructure forms a critical component of the Information Infrastructure Task Force, created in early 1993 by President Clinton and Vice President Gore.

This legislative proposal confronts fundamental questions about the role of copyright in the next century. On July 7, 1995, the Working Group released its preliminary draft report. Following additional hearings, public comment and consultation, the Administration released its long-awaited ''White Paper,'' or final report, on copyright protection in the digital, electronic information age on September 5, 1995. This 238-page report, ''Intellectual Property and the National Information Infrastructure,'' culminates in legislative recommendations that are incorporated in this bill. This bill takes important steps toward answering questions about the structure of copyright protection for decades to come.

Increasing the accessibility to computer networks is of vital importance to our Nation's continued economic health and growth. Computers have already been integrated into virtually everything we do from getting cash at bank ATMs, paying for our groceries at the local market, and sending e-mail messages to friends, to making a simple telephone call that is directed by the telephone companies' computers.

Our dependence on computers only grows. Businesses both large and small depend on computers to communicate, manage and improve their delivery of goods and services. In fact, small businesses can use computers successfully to keep up with their bigger competitors.

We have to make sure that all of us feel as comfortable with using computers as we did, in my youth, using a typewriter. We have to make sure that we appreciate all the advantages that networked communities, such as the Internet, have to offer. Computer networks will increasingly become the means of transmitting copyrighted works in the years ahead. This presents great opportunities but also poses significant risks to authors and our copyright industries.

I believe that we can legislate in ways that promote the use of the Internet, both by content providers and users. We must and will update our copyright laws to protect the intellectual property rights of creative works available online. The future growth of computer networks like the Internet and of digital, electronic communications requires it. Otherwise, owners of intellectual property will be unwilling to put their material online. If there is no content worth reading online, the growth of this medium will be stifled, and public accessibility will be retarded.

The Report of the Working Group on Intellectual Property Rights put it this way:

> Thus, the full potential of the NII will not be realized if the education, information and entertainment products protected by intellectual property laws are not protected effectively when disseminated via the NII. Creators and other owners of intellectual property will not be willing to put their interests at risk if appropriate systems—both in the U.S. and internationally—are not in place to permit them to set and enforce the terms and conditions under which their works are made available in the NII environment. Likewise, the public will not use the services available on the NII and generate the market necessary for its success unless a wide variety of works are available under equitable and reasonable terms and conditions, and the integrity of those works is assured. All the computers, telephones, fax machines, scanners, cameras, keyboards, televisions, monitors, printers, switches, routers, wires, cables, networks, and satellites in the world will not create a successful NII, if there is no content. What will drive the NII is the content moving through it.

The emergence of the computer networks forming the backbone of the National Information Infrastructure in this country and the Global Information Infrastructure worldwide hold enormous promise. They also present an enormous challenge to those of us in government and in the private sector to make sure it is accessible and affordable to all.

I support a balanced approach to digital communications and have already proposed a series of other bills to foster the continued growth of electronic communications while encouraging creativity. Together with this NII Copyright Protection Act, they will go a long way toward creating an environment for growth of digital networks.

When we consider information providers we cannot leave out the Federal Government. Government databases hold vast amounts of information that is not restricted by copyright and is legally required by the Freedom of Information Act to be available to the public, who paid for its collection. Earlier this year I introduced, along with Senators Hank BROWN and John KERRY, the ''Electronic Freedom of Information Improvement Act of 1995,'' S.1090, to require federal agencies to make more information available in electronic form and online so that it can be readily accessible to students and scholars doing research, companies who need the data for business purposes or simply curious members of the public.

Government ought to be using technology to make itself more accountable and government information more accessible to the public. Individual federal agencies are already contributing to the development of the much heralded National Information Infrastructure by using technology to make Government information more easily accessible to our citizens. For example, the Internet Multicasting Service [IMS] now posts massive government data archives, including the Securities and Exchange Commission EDGAR database and the U.S. Patent and Trademark Office database on the Internet free of charge. Similarly, FedWorld, a bulletin board available on the Internet, provides a gateway to more than 60 Federal agencies.

The Electronic Freedom of Information Improvement Act would contribute to that information flow by increasing online access to Government information, including agency regulations, opinions, and policy statements, and FOIA-released records that are the subject of repeated requests. This bill passed the Senate in the last Congress and I hope to see it through both Houses of this Congress.

Our increasing reliance on networked computers for business and socializing also makes us more vulnerable to hackers and computer criminals. Anyone who has had to deal with the aftermath of a computer virus knows what havoc can be. Having previously been active in legislation to prevent computer crime and abuse, I have this year introduced the National Information Infrastructure Protection Act, S.982, with Senators KYL and GRASSLEY to increase protection for both government and private computers, and the information on those computers, from the growing threat of computer crime. This bill would increase protection against computer thieves, hackers and blackmailers and protecting computer systems used in interstate and foreign commerce and communications from destructive activity. It also serves to increase personal privacy, a matter on which I feel most strongly.

Finally, I note my recent introduction with Senator FEINGOLD of the Criminal Copyright Improvement Act of 1995, S.1122. This bill is designed to close a significant loophole in our copyright law and encourage the continued growth of the NII by insuring better protection of the creative works available online.

Under current law, a defendant's willful copyright infringement must be for purposes of commercial advantage or private financial gain to be the subject of criminal prosecution. As exemplified by the recent case of United States v. LaMacchia, this presents an enormous loophole in criminal liability for willful infringers who can use digital technology to make exact copies of copyrighted software or other digitally encoded works, and then use computer networks for quick, inexpensive and

mass distribution of pirated, infringing works.

The Report of the Working Group recognizes that the LaMacchia case demonstrates that the current law is insufficient to prevent flagrant copyright violations in the NII context and generally supports the amendments to the copyright law and the criminal law (which sets out sanctions for criminal copyright violations) set forth in S.1122, introduced in the 104th Congress by Senators LEAHY and FEINGOLD following consultations with the Justice Department. This increasingly important problem must be solved and the Criminal Copyright Improvement Act, S.1122, is a necessary component of the legal changes we need to adapt to the emerging digital environment.

Today I join in sponsoring a bill that will help update our copyright law to the emerging electronic and digital age by revising basic copyright law definitions to take electronic transmissions into account. Further it endorses the use of copyright protection systems so that we may take fullest advantage of the technological developments that can be used to protect copyright and provide incentives for creativity. The bill provides graduated civil and criminal remedies for the circumvention of copyright protection systems through the use of false copyright management information.

Finally, it suggests certain limited exemptions for libraries and the visually impaired. In this bill and others we need carefully to construct the proper balance that will respect copyright, encourage and reward creativity and serve the needs of public access to works.

I believe that technological developments, such as the development of the Internet and remote computer information databases, are leading to important advancements in accessibility and affordability of information and entertainment services. We see opportunities to break through barriers previously facing those living in rural settings and those with physical disabilities. Democratic values can be served by making more information and services available.

The public interest requires the consideration and balancing of such interests. In the area of creative rights that balance has rested on encouraging creativity by ensuring rights that reward it while encouraging its public performance, distribution and display.

The Constitution speaks in terms of promoting the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries. Technological developments and the emergence of the Global Information Infrastructure hold enormous promise and opportunity for creators, artists, copyright industries and the public. There are methods of distribution emerging that dramatically affect the role of copyright and the accessibility of art, literature, music, film and information to all Americans.

I was pleased to work with Chairman HATCH, Senator THURMOND, Senator FEINSTEIN, Senator THOMPSON and others earlier this year to craft a bill creating a performance right in sound recordings, a matter that had been a source of contention for more than 20 years. That bill, The Digital Performance Rights in Sound RECORDings Act of 1995, S.227, deals with digital transmissions, has already passed the Senate and should soon be the law of the land.

Senator HATCH and I have also previously joined to cosponsor the Anticounterfeiting Consumer Protection Act of 1995, S.1136, to add law enforcement tools against counterfeit goods and to protect the important intellectual property rights associated with trademarks. I anticipate prompt hearings on that important measure and its enactment this Congress.

I look forward to working with Chairman HATCH, the Chairman of the Judiciary, and others to adapt our copyright laws to the needs of the NII and the global information society, as well. The amendment of our copyright laws is an important and essential effort, one that merits our time and attention. I hope and trust that we will soon begin hearings on this important measure so that we may be sure to understand its likely impact both domestically and internationally. We must carefully balance the authors' interest in protection along with the public's interest in the accessibility of information.

Ours is a time of unprecedented challenge to copyright protection. Copyright has been the engine that has traditionally converted the energy of artistic creativity into publicly available arts and entertainment. Historically, Government's role has been to encourage creativity and innovation by protecting copyrights that create incentives for the dissemination to the public of new works and forms of expression. That is the tradition that I intend to continue in this bill, the NII Copyright Protection Act of 1995.

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. MACK, his name was added as a cosponsor of S. 44, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

At the request of Mr. REID, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Idaho [Mr. CRAIG], and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 44, supra.

S. 112

At the request of Mr. DASCHLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 112, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by a cooperative telephone company.

S. 704

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 771

At the request of Mr. PRYOR, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 771, a bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes.

S. 960

At the request of Mr. SANTORUM, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 960, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns, and for other purposes.

S. 1049

At the request of Mr. HEFLIN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1049, a bill to amend the National Trails Systems Act to designate the route from Selma to Montgomery as a National Historic Trail, and for other purposes.

S. 1086

At the request of Mr. MACK, his name was added as a cosponsor of S. 1086, a bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes.

At the request of Mr. DOLE, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1086, supra.

S. 1088

At the request of Mr. COHEN, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 1088, a bill to provide for enhanced penalties for health care fraud, and for other purposes.

S. 1144

At the request of Mr. MURKOWSKI, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1144, a bill to reform and enhance the management of the National Park System, and for other purposes.

S. 1166

At the request of Mr. LUGAR, the names of the Senator from Florida [Mr. MACK] and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 1166, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, to improve the registration of pesticides, to provide minor use crop protection, to improve

pesticide tolerances to safeguard infants and children, and for other purposes.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1253

At the request of Mr. ABRAHAM, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1253, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 1254

At the request of Mr. ABRAHAM, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1254, a bill to disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity.

SENATE RESOLUTION 176—RELATING TO EXPENDITURES FOR OFFICIAL OFFICE EXPENSES

Mr. WARNER (for himself and Mr. FORD) submitted the following resolution; which was considered and agreed to:

S. RES. 176

Resolved, That section 2(3) of Senate Resolution 294, Ninety-sixth Congress, agreed to April 29, 1980, is amended—

(1) by striking ''and'' after ''Capitol'' and inserting a comma; and

(2) by inserting before the semicolon at the end the following: '', and copies of the calendar 'We The People' published by the United States Capitol Historical Society''.

SEC. 2. Copies of the calendar ''We The People'' published by the United States Capitol Historical Society shall be deemed to be Federal publications described in section 6(b)(1)(B)(v) of Public Law 103–283.

AMENDMENTS SUBMITTED

THE DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

GRAMS (AND MCCAIN) AMENDMENT NO. 2811

(Ordered to lie on the table.)

Mr. GRAMS (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by them to the bill (H.R. 2076) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes; as follows:

Beginning on page 115, strike line 11 and all that follow through line 2 on page 116.

SHELBY (AND OTHERS) AMENDMENT NO. 2812

(Ordered to lie on the table.)

Mr. SHELBY (for himself, Mr. LOTT, Mr. FAIRCLOTH, Mr. INHOFE, Mr. SIMPSON, and Mr. BROWN) submitted an amendment intended to be proposed by them to the bill H.R. 2076, supra, as follows:

On page 46, line 16, strike ''and''.

On page 46, line 20, strike the period and insert a semicolon.

On page 46, between lines 20 and 21, insert the following:

''(8) assurances that the State or States have implemented a requirement that each inmate must perform not less than 48 hours of work per week, which shall not be waived except as required by—

''(A) security conditions;

''(B) disciplinary action; or

''(C) medical certification of a disability that would make it impracticable for prison officials to arrange useful work for the inmate to perform; and

''(9) assurances that the State or States require that prison officials shall not provide to any inmate failing to meet the requirements of paragraph (8), privileges, including—

''(A) access to television;

''(B) access to bodybuilding or weight lifting equipment;

''(C) access to recreational sports;

''(D) unmonitored telephone calls, except when between the inmate and the immediate family or attorney of the inmate;

''(E) instruction or training equipment for boxing, wrestling, judo, karate, or other material art;

''(F) except for use during required work, the use or possession of any electrical or electronic musical instrument;

''(G) an in-cell coffee pot, hot plate, or heating element;

''(H) food exceeding in quality or quantity to that which is available to enlisted personnel in the United States Army;

''(I) dress, hygiene, grooming, and appearance other than those allowed as standard in the prison, unless required for disciplinary action or a medical condition; or

''(J) equipment or facilities for publishing or broadcasting material not approved by prison officials as being consistent with prison order and discipline.

GRAMM AMENDMENT NO. 2813

Mr. GRAMM proposed an amendment to the bill H.R. 2076, supra; as follows:

On page 15, line 23 strike ''148,280,000'' and insert in lieu thereof ''168,280,000''.

On page 15, line 24 strike ''and''.

On page 16, line 2 after ''103–322'' insert ''; and of which $2,000,000 shall be for activities authorized by section 210501 of Public Law 103–322''.

On page 20, line 8 strike ''$114,463,000'' and insert in lieu thereof ''$104,463,000''.

On page 115, line 9 strike ''$40,000,000'' and insert in lieu thereof ''$22,000,000''.

On page 123, line 1 strike ''$3,000,000'' and insert in lieu thereof ''300,000''.

On page 151, line 16 strike ''(1)'' and insert ''(2)''.

On page 151, line 18, strike ''(2) and (3)'' and insert ''(3) and (4)''.

On page 151, line 19 strike ''(2)'' and insert ''(3)''.

On page 152, line 13 strike ''(3)'' and insert ''(4)''.

On page 153, line 14 strike ''(4)'' and insert ''(5)''.

On page 154, line 21 strike ''(5)'' and insert ''(6)''.

On page 155, line 3 strike ''(6)'' and insert ''(7)''.

On page 155, line 9 strike ''(7)'' and insert ''(8)''.

On page 155, line 19 strike ''(8)'' and insert ''(9)''.

On page 151, line 16 after ''Sec. 614.'' insert ''(1) This Act may be cited as the Equal Opportunity Act of 1995.''

On page 161, line 25 strike ''$115,000,000'' and insert in lieu thereof ''$140,000,000''.

HATFIELD (AND HOLLINGS) AMENDMENT NO. 2814

Mr. HATFIELD (for himself and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2076, supra; as follows:

At the end of the Committee Amendment beginning on page 2, line 9, insert the following:

The amount from the Violent Crime Reduction Trust Fund for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs is reduced by $75,000,000.

The following sums are appropriated in addition to such sums provided elsewhere in this Act.

For the Department of Justice, Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, $75,000,000.

For the Department of Commerce, International Trade Administration, ''Operations and Administration'', $8,100,000; for the Minority Business Development Agency, ''Minority Business Development'', $32,789,000; for the National Telecommunication and Information Administration, ''Salaries and Expenses'', $3,000,000; for the Patent and Trademark Office ''Salaries and Expenses'', $26,000,000; for the National Institute of Standards and Technology, ''Industrial Technology Services'', $25,000,000; for the National Institute of Standards and Technology, ''Construction of Research Facilities'', $3,000,000; and the amount for the Commerce Reorganization Transition Fund is reduced by $10,000,000.

For the Department of State, Administration of Foreign Affairs ''Diplomatic and Consular Programs'', $135,635,000; for ''Salaries and Expenses'', $32,724,000; for the ''Capital Investment Fund'', $8,200,000.

For the United States Information Agency, ''Salaries and Expenses'', $9,000,000; for the ''Technology Fund'', $2,000,000; for the ''Educational and Cultural Exchange Programs'', $20,000,000 of which $10,000,000 is for the Fulbright program; for the Eisenhower Exchanges, $837,000; for the ''International Broadcasting Operations'', $10,000,000; and for the East West Center, $10,000,000.

For the United States Sentencing Commission, ''Salaries and Expenses'', $1,460,000; for the International Trade Commission, ''Salaries and Expenses'', $4,250,000; for the Federal Trade Commission ''Salaries and Expenses'', $9,893,000; for the Marine Mammal Commission, ''Salaries and Expenses'', $384,000; for the Securities and Exchange Commission, ''Salaries and Expenses'', $29,740,000; and for the Small Business Administration, $30,000,000.

BIDEN (AND OTHERS) AMENDMENT NO. 2815

Mr. BIDEN (for himself, Mr. HATCH, Mr. HOLLINGS, Mr. GRAMM, Mr. WELLSTONE, Mrs. BOXER, Mr. KOHL, Mr. KERRY, Mr. INOUYE, Mr. AKAKA, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. CONRAD, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mr. DODD, Mr. ROBB, Mr. SARBANES, Mr. DORGAN, Mr. SPECTER, Ms.

SNOWE, Mr. SANTORUM, and Mr. HEFLIN) proposed an amendment to the bill H.R. 2076 supra; as follows:

On page 25, line 19, strike ''$100,900,000'' and insert ''$175,400,000''.

On page 25, line 22, strike ''$4,250,000'' and insert ''$6,000,000''.

On page 26, line 1, strike ''$61,000,000'' and insert ''$130,000,000''.

On page 26, line 7, strike ''$6,000,000'' and insert ''$7,000,000''.

On page 26, line 10, insert after ''Act;'' the following: ''$1,000,000 for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the Violent Crime Control and Law Enforcement Act of 1994; $500,000 for Federal victim's counselors, as authorized by section 40114 of that Act; $50,000 for grants for televised testimony, as authorized by section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968; $200,000 for the study of State databases on the incidence of sexual and domestic violence, as authorized by section 40292 of the Violent Crime Control and Law Enforcement Act of 1994; $1,500,000 for national stalker and domestic violence reduction, as authorized by section 40603 of that Act;''.

McCAIN (AND DORGAN) AMENDMENT NO. 2816

Mr. McCAIN (for himself and Mr. DORGAN) proposed an amendment to the bill H.R. 2076, supra; as follows:

At the end of the pending committee amendment, insert the following new section:

SEC. . COMPETITIVE BIDDING FOR ASSIGNMENT OF DBS LICENSES

No funds provided in this or any other Act shall be expended to take any action regarding the applications that bear Federal Communications Commission File Numbers DBS–94–11EXT, DBS–94–15ACP, and DBS–94–16MP; Provided further, that funds shall be made available for any action taken by the Federal Communications Commission to use the competitive bidding process prescribed in Section 309(j) of the Communications Act of 1934 (47 U.S.C. §309(j)) regarding the disposition of the 27 channels at 110° W.L. orbital location.

KERREY (AND OTHERS) AMENDMENT NO. 2817

Mr. KERREY (for himself, Mr. LEAHY, Mr. LIEBERMAN, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 2076, supra; as follows:

At the appropriate place in the bill insert the following: ''The amounts made available to the Department of Justice in Title I for administration and travel are reduced by $19,200,000.''

On page 73, between lines 4 and 5, insert the following:

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $18,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $900,000 shall be available for program administration and other support activities as authorized by section 391 of the Act including support of the Advisory Council on National Information Infrastructure: *Provided further*, That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: *Provided further*, That notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety, or other social services: *Provided further*, That in reviewing proposals for funding, the Telecommunications and Information and Infrastructure Assistance Program (also known as the National Information Infrastructure Program) shall add to the factors taken into consideration the following: (1) the extent to which the proposed project is consistent with State plans and priorities for the deployment of the telecommunications and information infrastructure and services; and (2) the extent to which the applicant has planned and coordinated the proposed project with other telecommunications and information entities in the State.

BIDEN (AND BRYAN) AMENDMENT NO. 2818

Mr. BIDEN (for himself and Mr. BRYAN) proposed an amendment to the bill H.R. 2076, supra; as follows:

On page 26, line 10, after ''Act;'' insert the following: ''$27,000,000 for grants for residential substance abuse treatment for State prisoners pursuant to section 1001(a)(17) of the 1968 Act; $10,252,000 for grants for rural drug enforcement assistance pursuant to section 1001(a)(9) of the 1968 Act;''.

On page 28, line 11, before ''$25,000,000'' insert ''$150,000,000 shall be for drug courts pursuant to title V of the 1994 Act;''.

On page 29, line 6, strike ''$750,000,000'' and insert ''$728,800,000.''

On page 29, line 15, after ''Act;'' insert the following: ''$1,200,000 for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act''.

On page 44, lines 8 and 9, strike ''conventional correctional facilities, including prisons and jails,'' and insert ''correctional facilities, including prisons and jails, or boot camp facilities and other low cost correctional facilities for nonviolent offenders that can free conventional prison space''.

On page 20, line 16, strike all that follows to page 20 line 19, and insert: ''Section 245(i) of the Immigration and Nationality Act (8 U.S.C. 1255(i)) is amended—

(1) in the second sentence of paragraph (1), by striking ''five'' and inserting ''ten''; and

(2) in paragraph (3), by inserting before the period at the end the following: ''or, notwithstanding any other provision of law, may be deposited as offsetting collections in the Immigration and Naturalization Service ''Salaries and Expenses'' appropriations account to be available to support border enforcement and control programs''.

The amendments made by subsection (a) shall apply to funds remitted with applications for adjustment of status which were filed on or after the date of enactment of this Act.

For activities authorized by section 130016 for Public Law 103–322, $10,300,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

DOMENICI (AND OTHERS) AMENDMENT NO. 2819

Mr. DOMENICI (for himself, Mrs. KASSEBAUM, Mr. HOLLINGS, Mr. D'AMATO, Mr. STEVENS, Mr. INOUYE, Mr. HATFIELD, Mr. KENNEDY, and Mr. SPECTER) proposed an amendment to the bill H.R. 2076, supra; as follows:

At the end of the committee amendment beginning on page 26, line 18, add the following:

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the Legal Services Corporation Act, $340,000,000, of which $327,000,000 is for direct delivery of legal assistance, including basic field programs; and $13,000,000 (to be allocated by the Board of Directors of the Corporation) is for management, administration, and the Office of Inspector General: *Provided*, That $115,000,000 of the total amount provided under this heading shall not be available until the date on which the Corporation commences implementation of the system of competitive awards of grants and contracts under section 13.

ADMINISTRATIVE PROVISIONS—LEGAL SERVICES CORPORATION

SEC. 11. Funds appropriated under this Act to the Legal Services Corporation for basic field programs shall be distributed as follows:

(1) The Corporation shall define geographic areas and make the funds available for each geographic area on a per capita basis relative to the number of individuals in poverty determined by the Bureau of the Census to be within the geographic area, except as provided in paragraph (2)(B). Funds for such a geographic area may be distributed by the Corporation to 1 or more persons or entities eligible for funding under section 1006(a)(1)(A) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1)(A)), subject to sections 12 and 14.

(2) Funds for grants from the Corporation, and contracts entered into by the Corporation, for basic field programs shall be allocated so as to provide—

(A) except as provided in subparagraph (B), an equal figure per individual in poverty for all geographic areas, as determined on the basis of the most recent decennial census of population conducted pursuant to section 141 of title 13, United States Code (or, in the case of the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, Alaska, Hawaii, and the United States Virgin Islands, on the basis of the adjusted population counts historically used as the basis for such determinations); and

(B) an additional amount for Native American communities that received assistance under the Legal Services Corporation Act for fiscal year 1995, so that the proportion of the funds appropriated to the Legal Services Corporation for basic field programs for fiscal year 1996 that is received by the Native American communities shall be not less than the proportion of such funds appropriated for fiscal year 1995 that was received by the Native American communities.

SEC. 12. None of the funds appropriated under this Act to the Legal Services Corporation shall be used by the Corporation to make a grant, or enter into a contract, for the provision of legal assistance unless the Corporation ensures that the person or entity receiving funding to provide such legal assistance is—

(1) a private attorney admitted to practice in a State or the District of Columbia;

(2) a qualified nonprofit organization, chartered under the laws of a State or the District of Columbia, that—

(A) furnishes legal assistance to eligible clients; and

(B) is governed by a board of directors or other governing body, the majority of which is comprised of attorneys who—

(i) are admitted to practice in a State or the District of Columbia; and

(ii) are appointed to terms of office on such board or body by the governing body of a State, county, or municipal bar association, the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance;

(3) a State or local government (without regard to section 1006(a)(1)(A)(ii) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1)(A)(ii)); or

(4) a substate regional planning or coordination agency that serves a substate area and whose governing board is controlled by locally elected officials.

SEC. 13. (a) Not later than September 1, 1996, the Corporation shall implement a system of competitive awards of grants and contracts that will apply to all grants and contracts for the delivery of legal assistance awarded by the Corporation after the date of implementation of the system.

(b) Not later than 60 days after the date of enactment of this Act, the Legal Services Corporation shall promulgate regulations to implement a competitive selection process for the recipients of such grants and contracts.

(c) Such regulations shall specify selection criteria for the recipients, which shall include—

(1) a demonstration of a full understanding of the basic legal needs of the eligible clients to be served and a demonstration of the capability of serving the needs;

(2) the quality, feasibility, and cost effectiveness of a plan submitted by an applicant for the delivery of legal assistance to the eligible clients to be served; and

(3) the experience of the Corporation with the applicant, if the applicant has previously received financial assistance from the Corporation, including the record of the applicant of past compliance with Corporation policies, practices, and restrictions.

(d) Such regulations shall ensure that timely notice regarding an opportunity to submit an application for such an award is published in periodicals of local and State bar associations and in at least 1 daily newspaper of general circulation in the area to be served by the person or entity receiving the award.

(e) No person or entity that was previously awarded a grant or contract by the Legal Services Corporation for the provision of legal assistance may be given any preference in the competitive selection process.

(f) Sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(9) and 42 U.S.C. 2996j) shall not apply to grants and contracts awarded under the system of competitive awards for grants and contracts for the delivery of legal assistance.

SEC. 14. (a) None of the funds appropriated under this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity (which may be referred to in this section as a ''recipient'')—

(1) that makes available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or represents any party or participates in any other way in litigation, that is intended to or has the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government, including influencing the timing or manner of the taking of a census;

(2) that attempts to influence the issuance, amendment, or revocation of any executive order, regulation, or similar promulgation by any Federal, State, or local agency, except as permitted in paragraph (3);

(3) that attempts to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case—

(A) that directly involves a legal right or responsibility of the client; and

(B) that does not involve the issuance, amendment, or revocation of any agency promulgation described in paragraph (2);

(4) that attempts to influence the passage or defeat of any legislation, constitutional amendment, referendum, initiative, or any similar procedure of Congress or a State or local legislative body;

(5) that attempts to influence the conduct of oversight proceedings of the Corporation or any person or entity receiving financial assistance provided by the Corporation;

(6) that pays for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, administrative expense, or related expense, associated with an activity prohibited in this section;

(7) that initiates or participates in a class action suit;

(8) that files a complaint or otherwise initiates litigation against a defendant, or engages in a precomplaint settlement negotiation with a prospective defendant, unless—

(A) each plaintiff has been specifically identified, by name, in any complaint filed for purposes of such litigation or prior to the precomplaint settlement negotiation; and

(B) a statement of facts written in English and, if necessary, in a language that the plaintiff understands, that enumerates the particular facts known to the plaintiff on which the complaint is based, has been signed by the plaintiff, is kept on file by the recipient, and is made available to any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and to any auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation, except that—

(i) on establishment of reasonable cause that an injunction is necessary to prevent probable, serious harm to a potential plaintiff, a court of competent jurisdiction may enjoin the disclosure of the identity of the potential plaintiff pending the outcome of such litigation or negotiation after notice and an opportunity for a hearing is provided to potential parties to the litigation or the negotiation; and

(ii) other parties to the litigation or negotiation shall have access to the statement of facts only through the discovery process after litigation has begun;

(9) unless—

(A) prior to the provision of financial assistance—

(i) if the person or entity is a nonprofit organization, the governing board of the person or entity has set specific priorities in writing, pursuant to section 1007(a)(2)(C)(i) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)(i)), of the types of matters and cases to which the staff of the nonprofit organization shall devote time and resources; and

(ii) the staff of such person or entity has signed a written agreement not to undertake cases or matters other than in accordance with the specific priorities set by such governing board, except in emergency situations defined by such board and in accordance with the written procedures of such board for such situations; and

(B) the staff of such person or entity provides to the governing board on a quarterly basis, and to the Corporation on an annual basis, information on all cases or matters undertaken other than cases or matters undertaken in accordance with such priorities;

(10) unless—

(A) prior to receiving the financial assistance, such person or entity agrees to maintain records of time spent on each case or matter with respect to which the person or entity is engaged;

(B) any funds, including Interest on Lawyers Trust Account funds, received from a source other than the Corporation by the person or entity, and disbursements of such funds, are accounted for and reported as receipts and disbursements, respectively, separate and distinct from Corporation funds; and

(C) the person or entity agrees (notwithstanding section 1009(d) of the Legal Services Corporation Act (42 U.S.C. 2996h(d)) to make the records described in subparagraph (A) available to any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and to any auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation;

(11) that provides legal assistance for or on behalf of any alien, unless the alien is present in the United States and is—

(A) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(B) an alien who—

(i) is married to a United States citizen or is a parent or an unmarried child under the age of 21 years of such a citizen; and

(ii) has filed an application to adjust the status of the alien to the status of a lawful permanent resident under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), which application has not been rejected;

(C) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) (relating to refugee admission) or who has been granted asylum by the Attorney General under such Act;

(D) an alien who is lawfully present in the United States as a result of withholding of deportation by the Attorney General pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h));

(E) an alien to whom section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note) applies, but only to the extent that the legal assistance provided is the legal assistance described in such section; or

(F) an alien who is lawfully present in the United States as a result of being granted conditional entry to the United States before April 1, 1980, pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)), as in effect on such date, because of persecution or fear of persecution on account of race, religion, or political calamity;

(12) that supports or conducts a training program for the purpose of advocating a particular public policy or encouraging a political activity, a labor or antilabor activity, a boycott, picketing, a strike, or a demonstration, including the dissemination of information about such a policy or activity, except that this paragraph shall not be construed to prohibit the provision of training to an attorney or a paralegal to prepare the attorney or paralegal to provide—

(A) adequate legal assistance to eligible clients; or

(B) advice to any eligible client as to the legal rights of the client;

(13) that provides legal assistance with respect to any fee-generating case, if a private attorney is available and willing to take the case;

(14) that claims, or whose employee or eligible client claims, or collects, attorneys' fees from a nongovernmental party to litigation, initiated after January 1, 1996, by such client with the assistance of such recipient or an employee of the recipient;

(15) that participates in any litigation with respect to abortion;

(16) that participates in any litigation on behalf of a person incarcerated in a Federal, State, or local prison;

(17) that initiates legal representation or participates in any other way, in litigation, lobbying, or rulemaking, involving an effort to reform a Federal or State welfare system, except that this paragraph shall not be construed to preclude a recipient from representing an individual eligible client who is seeking specific relief from a welfare agency, if such relief does not involve an effort to amend or otherwise challenge existing law (as of the date of the effort);

(18) that defends a person in a proceeding to evict the person from a public housing project if—

(A) the person has been charged with the illegal sale or distribution of a controlled substance; and

(B) the eviction proceeding is brought by a public housing agency because the illegal drug activity of the person threatens the health or safety of another tenant residing in the public housing project or employee of the public housing agency; or

(19) unless such person or entity agrees that the person or entity, and the employees of the person or entity, will not accept employment resulting from in-person unsolicited advice to a nonattorney that such nonattorney should obtain counsel or take legal action, and will not refer such nonattorney to a second person or entity or an employee of the person or entity, that is receiving financial assistance provided by the Legal Services Corporation, except that this paragraph shall not be construed to prohibit such first person or entity or an employee of the person or entity from referring such nonattorney to the appropriate Federal, State, or local agency with jurisdiction over the matter involved.

(b) Nothing in this section shall be interpreted to prohibit—

(1) a recipient from using funds from a source other than the Corporation for the purpose of contacting, communicating with, or responding to a request from, a State or local government agency, a State or local legislative body or committee, or a member thereof, regarding funding for the recipient, including a pending or proposed legislative or agency proposal to fund such recipient; or

(2) the Corporation from responding to a request for comments regarding a Federal funding proposal.

(c) Not later than 30 days after the date of enactment of this Act, the Corporation shall promulgate a suggested list of priorities that boards of directors may use in setting priorities under subsection (a)(9).

(d)(1) The Corporation shall not accept any non-Federal funds, and no recipient shall accept funds from any source other than the Corporation, unless the Corporation or the recipient, as the case may be, notifies in writing the source of the funds that the funds may not be expended for any purpose prohibited by the Legal Services Corporation Act or this title.

(2) Paragraph (1) shall not prevent a recipient from—

(A) receiving Indian tribal funds (including funds from private nonprofit organizations for the benefit of Indians or Indian tribes) and expending the tribal funds in accordance with the specific purposes for which the tribal funds are provided; or

(B) using funds received from a source other than the Corporation to provide legal assistance to a client who is not an eligible client if such funds are used for the specific purposes for which such funds were received, except that such funds may not be expended by recipients for any purpose prohibited by the Legal Services Corporation Act or this title (other than any requirement regarding the eligibility of clients).

(e) As used in this section:

(1) The term ''controlled substance'' has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) The term ''fee-generating case'' means a case that, if undertaken on behalf of an eligible client by a private attorney would reasonably be expected to result in a fee for legal services from an award to an eligible client from public funds, from the opposing party, or from any other source.

(3) The term ''individual in poverty'' means an individual who is a member of a family (of 1 or more members) with an income at or below the poverty line.

(4) The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(5) The term ''public housing project'' has the meaning as used within section 3, and the term ''public housing agency'' has the meaning given the term in section 3, of the United States Housing Act of 1937 (42 U.S.C. 1437a).

SEC. 15. None of the funds appropriated under this Act to the Legal Services Corporation or provided by the Corporation to any entity or person may be used to pay membership dues to any private or nonprofit organization.

SEC. 16. The requirements of sections 14 and 15 shall apply to the activities of a recipient described in section 14, or an employee of such a recipient, during the provision of legal assistance for a case or matter, if the recipient or employee begins to provide the legal assistance on or after the date of enactment of this Act. If the recipient or employee began to provide legal assistance for the case or matter prior to such date, and begins to provide legal assistance for an additional related claim on or after such date, the requirements shall apply to the activities of the recipient or employee during the provision of legal assistance for the claim.

SEC. 17. (a) Notwithstanding any other provision of this Act, the amounts appropriated under this Act for the accounts referred to in subsection (b) shall be adjusted as described in subsection (b).

(b)(1) In the matter under the heading ''OFFICE OF INSPECTOR GENERAL'' under the heading ''GENERAL ADMINISTRATION'' in title I, the reference to ''$30,484,000'' shall be considered to be a reference to ''$27,436,000''.

(2) In the matter under the heading ''SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES'' under the heading ''LEGAL ACTIVITIES'' in title I, the reference to ''$431,660,000'' shall be considered to be a reference to ''$406,529,000''.

(3) In the matter under the heading ''SALARIES AND EXPENSES, UNITED STATES ATTORNEYS'' under the heading ''LEGAL ACTIVITIES'' in title I, the reference to ''$920,537,000'' shall be considered to be a reference to ''$909,463,000''.

(4) In the matter under the heading ''CONSTRUCTION'' under the heading ''FEDERAL BUREAU OF INVESTIGATION'' in title I, the reference to ''$147,800,000'' shall be considered to be a reference to ''$98,800,000''.

(5) In the matter under the heading ''SALARIES AND EXPENSES'' under the heading ''INTERNATIONAL TRADE COMMISSION'' under the heading ''RELATED AGENCIES'' under the heading ''TRADE AND INFRASTRUCTURE DEVELOPMENT'' in title II, the reference to ''$34,000,000'' shall be considered to be a reference to ''$29,750,000''.

(6) In the matter under the heading ''SALARIES AND EXPENSES'' under the heading ''ECONOMIC AND INFORMATION INFRASTRUCTURE ECONOMIC AND STATISTICAL ANALYSIS'' under the heading ''DEPARTMENT OF COMMERCE'' in title II, the reference to ''$57,220,000'' shall be considered to be a reference to ''$46,896,000''.

(7) In the matter under the heading ''SALARIES AND EXPENSES'' under the heading ''BUREAU OF THE CENSUS'' under the heading ''DEPARTMENT OF COMMERCE'' in title II, the reference to ''$144,812,000'' shall be considered to be a reference to ''$133,812,000''.

(8) In the matter under the heading ''OFFICE OF INSPECTOR GENERAL'' under the heading ''GENERAL ADMINISTRATION'' under the heading ''DEPARTMENT OF COMMERCE'' in title II, the reference to ''$21,849,000'' shall be considered to be a reference to ''$19,849,000''.

(9) In the matter under the heading ''COMMERCE REORGANIZATION TRANSITION FUND'' under the heading ''GENERAL ADMINISTRATION'' under the heading ''DEPARTMENT OF COMMERCE'' in title II, the reference to the dollar amount for deposit in the Commerce Reorganization Transition Fund established under section 206(c)(1) for use in accordance with section 206(c)(4) shall be considered to be reduced by $5,000,000.

(10) In the matter under the heading ''SALARIES AND EXPENSES'' under the heading ''COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES'' in title III, the reference to ''$2,471,195,000'' shall be considered to be a reference to ''$2,446,194,665''.

(11) In the matter under the heading ''FOREIGN AFFAIRS REORGANIZATION TRANSITION FUND'' under the heading ''ADMINISTRATION OF FOREIGN AFFAIRS'' under the heading ''DEPARTMENT OF STATE'' in title IV, the reference to ''$26,000,000'' shall be considered to be a reference to ''$5,000,000''.

(12) In the matter under the heading ''OFFICE OF INSPECTOR GENERAL'' under the heading ''ADMINISTRATION OF FOREIGN AFFAIRS'' under the heading ''DEPARTMENT OF STATE'' in title IV, the reference to ''$27,350,000'' shall be considered to be a reference to ''$24,350,000''.

(13) In the matter under the heading ''WORKING CAPITOL FUND (RESCISSION)'' under the heading ''GENERAL ADMINISTRATION'' under the heading ''DEPARTMENT OF JUSTICE'' in title VII, the reference to ''$35,000,000'' shall be considered to be a reference to ''$55,000,000''.

SEC. 18. Notwithstanding any other provision of this Act, section 120, and the matter under the heading ''CIVIL LEGAL ASSISTANCE'' under the heading ''OFFICE OF JUSTICE PROGRAMS'' in title I, shall have no effect.

ABRAHAM (AND GRAMS) AMENDMENT NO. 2820

Mr. GRAMM (for Mr. ABRAHAM, for himself, and Mr. GRAMS) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place in the bill insert the following new section:

SEC. . (a) The Regulatory Coordination Advisory Committee for the Commodity Futures Trading Commission is terminated.

(b) Section 5(h) of the Export Administration Act of 1979 is repealed.

(c)(1) Section 5002 of title 18, United States Code, is repealed.

(2) The table of sections for chapter 401 of title 18, United States Code, is amended by

striking out the item relating to the Advisory Corrections Council.

(d) This action shall take effect 30 days after the date of the enactment of this Act.

HELMS AMENDMENT NO. 2821

Mr. GRAMM (for Mr. HELMS) proposed an amendment to the bill H.R. 29076, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . EXTENSION OF AU PAIR PROGRAMS.

Section 8 of the Eisenhower Exchange Fellowship Act of 1990 is amended in the last sentence by striking ''fiscal year 1995'' and inserting ''fiscal year 1999''.

DORGAN (AND CONRAD) AMENDMENT NO. 2822

Mr. GRAMM (for Mr. DORGAN, for himself, and Mr. CONRAD) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 124, after line 20, insert the following:

SEC. 6 . SENSE OF THE SENATE ON UNITED STATES-CANADIAN COOPERATION CONCERNING AN OUTLET TO RELIEVE FLOODING AT DEVILS LAKE IN NORTH DAKOTA.

(a) FINDINGS.—The Senate finds that—

(1) flooding in Devils Lake Basin, North Dakota, has resulted in water levels in the lake reaching their highest point in 120 years;

(2) basements are flooded and the town of Devils Lake is threatened with lake water reaching the limits of the protective dikes of the lake;

(3) the Army Corps of Engineers and the Bureau of Reclamation are now study the feasibility of constructing an outlet from Devils Lake Basin;

(4) an outlet from Devils Lake Basin will allow the transfer of water from Devils Lake Basin to the Red River of the North watershed that the United States shares with Canada; and

(5) the Treaty Relating to the Boundary Waters and Questions Arising Along the Boundary Between the United States and Canada, signed at Washington on January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the ''Boundary Water Treaty of 1909''), provides that ''waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other.'' (36 Stat. 2450).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the United States Government should seek to establish a joint United States-Canadian technical committee to review the Devils Lake Basin outlet project to consider options for an outlet that would meet Canadian concerns with regard to the Boundary Water Treaty of 1909.

HOLLINGS AMENDMENTS NOS. 2823–2824

Mr. GRAMM (for Mr. HOLLINGS) proposed two amendments to the bill H.R. 2076, supra; as follows:

AMENDMENT NO. 2823

On page 75 of the bill, line 7, after ''grants'' insert the following: ''*Provided further,* That of the amounts provided in this paragraph $76,300,000 is for the Manufacturing Extension Partnership program''.

AMENDMENT NO. 2824

Table the Committee amendment on page 79, lines 1 through 6.

On page 79, line 22, delete ''$42,000,000'' and insert ''$37,000,000''.

GRAMM AMENDMENT NO. 2825

Mr. GRAMM proposed an amendment to the bill H.R. 2076, supra; as follows:

On page 115, line 2 after ''equipment'' insert the following '': *Provided further,* That not later than April 1, 1996, the headquarters of the Office of Cuba Broadcasting shall be relocated from Washington, D.C. to south Florida, and that any funds available to the United States Information Agency may be available to carry out this relocation''.

HATFIELD (AND HOLLINGS) AMENDMENT NO. 2826

Mr. GRAMM (for Mr. HATFIELD, for himself and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2076, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . Sections 6(a) and 6(b) of Public Law 101–454 are repealed. In addition, notwithstanding any other provision of law, Eisenhower Exchange Fellowships, Incorporated, may use any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes.

HELMS AMENDMENT NO. 2827

Mr. GRAMM (for Mr. HELMS) proposed an amendment to the bill H.R. 2076, supra; as follows:

On page 110, between lines 2 and 3, insert the following new section:

SEC. 405. (a) Subject to subsection (b), section 15(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680(a)) and section 701 of the United States Information and Educational Exchange Act of 1948 and section 313 of the Foreign Relations Authorization Act, fiscal years 1994 and 1995 and section 53 of this Arms Control and Disarmament Act shall not apply to appropriations made available for the Department of State in this Act.

(b) The waiver of subsection (a) shall cease to apply December 1, 1995.

HELMS (AND PELL) AMENDMENT NO. 2828

Mr. GRAMM (for Mr. HELMS, for himself and Mr. PELL) proposed an amendment to the bill H.R. 2076, supra; as follows:

On page 93, line 7, after ''*Provided,*'' insert the following: ''That, notwithstanding the second sentence of section 140(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), not to exceed $125,000,000 of fees may be collected during fiscal year 1996 under the authority of section 140(a)(1) of that Act: *Provided further,* That all fees collected under the preceding proviso shall be deposited in fiscal year 1996 as an offsetting collection to appropriations made under this heading to recover the costs of providing consular services and shall remain available until expended: *Provided further,*''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, September 28, 1995, on S. 1260, the Public Housing Reform and Empowerment Act of 1995.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, September 28, 1995 session of the Senate for the purpose of conducting an executive session and mark up. Budget reconciliation instructions.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, September 28, 1995 at 9 a.m., in SR–332, to markup the committee budget reconciliation instruction.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, September 28, 1995 at 9:30 a.m., in SR–332, to discuss ethanol, clean air, and farm economy.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, September 28, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider the nominations of Derrick Forrister to be Assistant Secretary for Congressional and Intergovernmental Affairs, Department of Energy; Patricia Beneke to be Assistant Secretary for Water and Science, Department of the Interior; Eluid Martinez to be Commissioner of the Bureau of Reclamation, Department of the Interior; and Charles William Burton to be a Member of the Board of Directors of the U.S. Enrichment Corporation.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 28, 1995 at 2:30 p.m.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, September 28, at 10 a.m., for a nomination hearing on The Honorable Ned R. McWherter, to be Governor, U.S. Postal Service, and Donald S. Wasserman, to be a Member of the Federal Labor Relations Authority.

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

COMMITTEE ON FINANCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Thursday, September 28, 1995, beginning at 9 a.m. in room SH–216, to conduct a mark up of spending recommendations for the budget reconciliation legislation.

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

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 28, 1995, at 2 p.m., in room 226, Senate Dirksen Office Building to consider nominations.

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

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 28, 1995, at 1:30 p.m. to hold a hearing on non-immigrant immigration.

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

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Children and Families of the Committee on Labor and Human Resources be authorized to meet on Thursday, September 28, 1995, at 10 a.m., to consider private efforts to reshape America.

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

ADDITIONAL STATEMENTS

SUPPORT OF FUNDING FOR THE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION FUND [CDFI]

• Mr. INOUYE. Mr. President, I rise today to join my esteemed colleague from Vermont, Mr. LEAHY, to express my concern that by voting for final passage of H.R. 2099, we in the Congress are voting to eliminate funding for the Community Development Financial Institution Fund [CDFI]. The CDFI fund was established in the Community Development Banking and Regulatory Improvement Act of 1994—an Act which passed the Congress with overwhelming bipartisan support. In fact, this body voted unanimously for the measure, which sought to stimulate community lending and empower local communities by increasing access to credit and investment capital.

But Mr. President, I stand before you to offer another perspective on the importance of the CDFI fund, and that is the significant potential it holds for improving the economic conditions in Native American communities. Native American communities face some of the harshest living conditions in this country, leading some to draw comparisons with conditions in Third-World countries. Fifty-one percent of native American families living on reservations live below the poverty line, with unemployment rates on some reservations as high as 80 percent. Moreover, a recent study conducted by the Department of Housing and Urban Development found that over half of American Indian and Alaska Native families live in substandard housing, compared to the national average of 3 percent; 27 percent of American Indian and Alaska Native households are overcrowded or lack plumbing or kitchen facilities, compared to a national average of 5.4 percent; and approximately 40 percent of Native households were overcrowded, compared to a national average of 5.8 percent.

Mr. President, these conditions, under any circumstances, are unacceptable. And it is even more unacceptable that we in the Congress would turn our backs on an innovative program which would stimulate economic activity in these communities by leveraging private sector resources into permanent self-sustaining locally controlled institutions. Each $1 million in the fund would have a substantial impact, and could create 65 to 135 new jobs; provide 100 loans to micro-enterprises and self-employment ventures; assist 20 first-time homebuyers; or construct 20 units of low-income housing. It is my understanding that there are at least 13 Indian controlled financial institutions which would be eligible for assistance from the fund, and an additional 16 tribal entities that have expressed an interest in becoming CDFI's.

Earlier this year, I joined Senators BEN NIGHTHORSE CAMPBELL and MCCAIN in sponsoring a bill, the Native American Financial Services Organization Act [NAFSO], which emanated from recommendations of the congressionally chartered Commission on American Indian, Alaska Native, and Native Hawaiian Housing, and from a multi-agency Federal working group with tribal input, and was designed to dovetail with the CDFI fund, with NAFSO serving as a technical assistance provider to a second tier of primary lending institutions, or Native American Financial Institutions. The elimination of funding for the CDFI fund will have devastating ramifications for this NAFSO proposal.

Mr. President, I realize full well the climate within which we operate today, and that we in the Congress must exercise great fiscal restraint. And I commend the outstanding efforts of my esteemed colleagues, the chairman of the VA–HUD appropriations subcommittee, Mr. BOND, and the ranking member, Senator MIKULSKI, for producing a bill under these constraints—a bill which attempts in many ways to address the housing needs of Indian country. I only wish to point out that we in the Congress must ever be cognizant of our national responsibilities to the native people of this Nation, and that we must endeavor to improve the conditions under which the vast majority of our Native families live.

I feel compelled to take note of the irony that over the last few days, within the context of drastic reductions to funding for Indian tribal governments under the Interior Appropriations bill, that one of the justifications offered for these severe reductions was that tribal governments must become less dependent on Federal resources and more self-sufficient. And yet, today, we are poised to eliminate funding for the Community Development Financial Institution Fund—a fund which could have made tremendous strides in enabling tribal governments to realize greater economic independence.

Mr. President, I thank you for this time, and I thank my colleague from Vermont, Mr. LEAHY, for his leadership on these matters.•

DEDICATED U.S. SERVICE MEN AND WOMEN

• Mr. D'AMATO. Mr. President, I rise today to thank our brave U.S. service men and women who with total dedication serve around the globe, but most importantly to pay tribute to four individuals who recently died in the service of our country. On August 15, 1995, Chief Warrant Officer Michael R. Baker, Chief Warrant Officer Donald J. Cunningham, Specialist Crew Chief Robert A. Rogers, and Specialist Crew Chief Dale Wood perished when their U.S. Army Blackhawk helicopter crashed into the sea off the shores of Cyprus. The crew was on a routine humanitarian mission to bring supplies and mail to the U.S. Embassy in Beirut.

U.S. service men and women worldwide are frequently responsible for humanitarian and lifesaving missions which often go unnoticed by the American people. These missions are often fraught with danger attributable to health concerns or often insurgent occupation. The Cyprus airlift is just one example where our U.S. service men and women are tasked to put themselves in harms way.

In addition to Cyprus being needed as a strategic point to support our Middle East efforts it has also become a strategic point for United States involvement in several areas of international concern, such as counterterrorist measures, narcotics trafficking, counterfeiting, money laundering, and international bank fraud. The Cyprus

National Police force has been very cooperative and helpful in our international law enforcement efforts. I would like to take this opportunity to personally thank Assistant Chief of Police Panikos Hadjiloizou. Chief Hadjiloizou has been noted as being one of the driving forces in the cooperative international law enforcement effort being conducted within Cyprus. Chief Hadjiloizou has worked in close coordination with the U.S. Secret Service, the Drug Enforcement Agency, and other U.S. law enforcement agencies in efforts to stem these organized criminal organizations. I wanted to take this opportunity to thank Chief Hadjiloizou and hope that this cooperative effort continues its successful campaign. I also want to thank Chief Hadjiloizou and the men under his command for their extraordinary efforts to locate and recover the remains of the Blackhawk crew in order to return them to their families. I am sure that I am speaking on behalf of all my colleagues when I thank him for all his efforts.

We all are aware that international criminal activity is expanding and the only way to counteract this growth is through cooperative, task force involvement between the United States and its international neighbors.●

JUDITH COLT JOHNSON

Mr. SARBANES. Mr. President, I rise today to recognize and pay tribute to a distinguished Marylander, committed environmentalist, and model citizen—Judith Colt Johnson. Judy recently stepped aside from a long and distinguished career as president of the Committee to Preserve Assateague Island. I want to extend my personal congratulations and thanks for her many years of hard work and dedication to the environment and the stewardship of Assateague Island's ecosystem.

Judy Johnson founded the Committee to Preserve Assateague Island in 1970, the year I was first elected to the U.S. Congress, and served as its president for the past 25 years. Over the years, Judy worked tirelessly to preserve the natural beauty and unspoiled character of Assateague Island. Her accomplishments are many and remarkable. Among other things she: Led the successful campaign to amend the organic act for the National Seashore to remove provisions calling for construction of a road the length of the island and 600 acres of development; developed a grass-roots membership of over 1,300 people representing 38 states; blocked construction of a sewage outfall pipe across the island; sponsored an annual beach cleanup marshalling larger volunteer efforts each year; and convened the first-ever conference on the condition of Maryland's coastal bays which initiated the current efforts to protect these sensitive waters;

Judy not only organized and led these efforts, but gave selflessly of her time and energy to make Assateague a better place for all of us. She has done this through activities such as cleaning trash from the beach and helping plant stems of beach grasses and seedlings to protect valuable wildlife habitat. She also contributed substantially to the development of the master plan for Chincoteague National Wildlife Refuge—now considered a model for other wildlife refuges in coastal areas—and actively participated in hundreds of public meetings, hearings and workshops on issues affecting Assateague and the surrounding areas. Her monthly newletters have provided invaluable information on potential threats to the natural habitat and ecology of this fragile barrier island as well as the many noteworthy events and special values of this area. I have had the privilege of working closely with Judy and her organization on a number of issues affecting Assateague Island and can attest that Assateague Island would not look as it does today had it not been for all the hard work of Judy Johnson over the years. Judy's indefatigable energy, spirit and determination are renowned.

Mrs. Johnson's activities and interests were not limited to her involvement with the Committee to Preserve Assateague Island. She also served on numerous national and State conservation organizations including the Maryland Wetlands Committee, the Maryland and Virginia Conservation Councils, the board of the Coast Alliance, the advisory council to the National Parks and Conservation Association and the Garden Club of America. In recognition of her outstanding service and dedication, Judy has received numerous awards and commendations including the U.S. Army Corps of Engineers Commander's Award for Public Service, the Izaak Walton League of America Honor Roll Award, the Take Pride in America Award given by the U.S. Department of the Interior, and the National Parks and Conservation Association's Conservationist of the Year Award.

The efforts of Judy Johnson over the past 25 years have earned her the respect and admiration of everyone with whom she has worked and the visitors to Assateague Island will benefit from her labors for years to come. I join with her many friends in extending my best wishes and thanks for her leadership and commitment.●

THE AMERICAN PROMISE

● Mr. ROBB. Mr. President, I rise today to speak briefly about an important new PBS series entitled ''The American Promise'', which will premiere on October l, 2, and 3. ''The American Promise'' celebrates community based-democracy—the individual works of countless citizens throughout America who work every day to make their communities stronger and more vital.

There is no question that our actions in this Capitol represent democracy's most visible work. It is the facet of democracy most studied in classrooms and most reported nationally by the media.

But our legislative world, Mr. President, has increasingly, in my judgment, become a world of partisanship and competition. The focus too often turns to who wins and who loses rather than how we can work together to reach a positive goal. I believe this partisanship is making many of our citizens more frustrated and cynical.

So we can not forget that our work in Washington is but one form of American democracy—and that American democracy is larger and more diverse than the business conducted here in this Capitol.

In communities throughout our Nation, in ways both large and small, citizens decide every day to become a valuable part of the democratic process. They do this by joining an organization; by bringing others together to improve or expand an existing service; by asking how a practice that does not work can be changed; by engaging in a civil and respectful debate; by considering another viewpoint; or by taking responsibility to make a hard decision which will make a community better.

When this happens, Mr. President, everybody in the community wins. When a community development bank is opened where none existed before, when individuals cooperate so that dry land can be irrigated, score keeping becomes irrelevant. Through action and energy, participation and deliberation, taking responsibility and seeking common ground, American democracy comes to life.

''The American Promise'', a new PBS television series, reminds us of the community-based democracy that is alive and well beyond this Capitol. And in doing so, it both strengthens our faith in our democracy and teaches our citizens how they can personally be a part of the democratic process in their own communities. And because ''The American Promise'' will be made available to high school and junior high school classes through the United States, young Americans will be able to have it as they study civics and government.

In roughly fifty story segments taken from every region of the county, lessons are offered on the skills and values needed to bring our democracy to life. These vignettes illustrate core American values such as freedom, responsibility, opportunity, participation, and deliberation.

Each 3 hour segment contains select historical reenactments, which serve to establish important contexts through which the remaining vignettes take on new meaning. The first of these reenactments, which appears the beginning of the documentary, is set in l769, in the streets of Williamsburg, VA. We watch as a young Thomas Jefferson, along with Patrick Henry, Colonel

George Washington, Peyton Randolph, George Mason, Richard Henry Lee, and others, take the first steps toward freedom. In the House of Burgesses, on the streets of Colonial Williamsburg, in a local tavern, the group draws up Virginia's plans to boycott English goods.

We hear Washington's words, ''How far their attention to our rights and privileges is to be awakened or alarmed by starving their trade and manufacturers remains to be tried.'' The viewers of ''The American Promise'' see our Founding Fathers starting a rebellion that will gather strength for 7 more years before the Declaration of Independence is written.

Although we sometimes think of our freedoms as a Nation being won at Concord, Bunker Hill or Yorktown, these freedoms were also the result of years of meetings and debate and consensus building. This serves as a true reminder of the communal instincts that helped create our great Nation.

Mr. President, I urge my colleagues and viewers across the Nation to watch this important program. ''The American Promise'' reminds us what is right about America—and challenges us all to be good citizens always working to make our Nation stronger and greater.●

●Mr. AKAKA. Mr. President, would the Senator from Missouri, the chairman of the VA, HUD, and Indepdent Agencies Subcommittee, yield a few moments for me to address an issue of great important to the people of Hawaii and the Pacific?

Mr. BOND. I would be happy to yield to the junior Senator from Hawaii.

Mr. AKAKA. Mr. President, I am concerned that the disaster needs of the Pacific are not being adequately addressed by the Federal Emergency Management Agency [FEMA]. In particular, I am concerned that FEMA lacks adequate staffing for its Pacific Area Office, located in Honolulu, to address fully this mitigation, training, and emergency response needs of this large and diverse area.

As the Senator from Missouri knows, FEMA's Region IX, based in San Francisco, is currently responsible for administering emergency management assistance programs and responding to disasters throughout the Pacific—including American Samoa, Guam, the Commonwealth of the Northern Marianas Islands, the Federated State of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands—as well as in California, Arizona, and Nevada. It is by far the largest of FEMA's regions, covering an area greater in size than the U.S. mainland. But the current grouping of Hawaii and the Pacific Islands within Region IX results in the Pacific islands receiving less than adequate attention.

The Pacific insular states are seven different jurisdictions that are culturally, economically, and politically distinct from mainland states. The estimated 110 FEMA employees who staff the San Francisco office are too remote, both geographically and culturally, to provide the full range of disaster-related assistance to the unique Pacific insular states. Quite understandingably, they are preoccupied by the vast emergency needs of the populations who live closer at hand, in California, Nevada, and Arizona.

The Republic of Palau, for example, is 5,500 miles from San Franscisco—a 2-day journey from the continental U.S. by jet. Moreover, when FEMA officials finally arrive at the scene of a disaster that has occurred in the Pacific, they must contend with major differences in language, facilities, food, climate, and communications not to mention the idiosyncrasies of local political systems and administrative practices.

The establishment of the Pacific Area Office in Honolulu 2 years ago vastly improved FEMA's ability to respond quickly to disasters in the central and South Pacific, if only because the facility is located thousands of miles closer to potential disaster sites. And, while the office has made a serious effort to maintain ongoing contact with the more remote insular jurisdictions, it is seriously limited in its ability to provide critical training, technical assistance, and hazard mitigation services that could significantly minimize loss of life and property.

So, given the foregoing, I might ask the Senator from Missouri if he would consider the Pacific's emergency needs when the pending measure goes to conference.

Mr. BOND. What is the Senator from Hawaii's specific request?

Mr. AKAKA. After extensive consultation with emergency management officials and representatives of the Pacific insular states, I have determined that the service limitations I have described can only be overcome by augmenting the Pacific Area Office with a minimum of twelve (12) additional permanent staff. Of these, six, (6) are needed in the Pacific Area Office itself to support preparedness training, planning, mitigation, and logistical functions, and six (6) others are required as permanent liaison officers assigned to, and physically based in, each of FEMA's insular Pacific jurisdictions.

Mr. BOND. So the Senator from Hawaii requests assistance in securing conference report language directing FEMA to assign 12 FTEE to the Pacific Area Office?

Mr. AKAKA. That is my request. The vital assistance provided by such staff could save millions of dollars in property and economic activity, not to mention human lives. I would underscore the fact that I am not proposing the establishment of a new regional office, only that the existing satellite office in Hawaii be provided with the resources to meet the full range of our emergency management obligations in the Pacific.

Ms. MIKULSKI. If I may interject. My colleagues may recall that as chairman of the VA, HUD, and Independent Agencies Subcommittee in the 102d Congress, I supported the original establishment of the Pacific Area Office. At that time, the subcommittee set aside $500,000 in the Senate report accompanying the FY92 VA, HUD, and Independent Agencies Appropriations bill for this initiative.

The subcommittee's action reflected a concern that a permanent FEMA presence was needed in the Pacific. Until the office was opened in Honolulu in 1993, the agency had no forward-based staff or facilities in these jurisdictions; instead, all disaster activities were conducted directly from FEMA's Region IX office, located in San Francisco, thousands of miles from these jurisdictions.

While the creation of this office has clearly improved FEMA's ability to deal with the many disasters that occur in the Pacific, the agency still falls short of fully providing for the emergency needs of our citizens and friends in the Pacific. I think we need to consider seriously making the Pacific Area Office a full-service office, one that can provide robust mitigation, training, and emergency response services in a timely, appropriate fashion.

So, I would support the Senator from Hawaii's request that we consider taking this matter up in conference.

Mr. AKAKA. The Senator from Maryland has ably summarized the essence of this issue. I appreciate her comments as well as her key role in originally establishing the Pacific Area Office.

Mr. BOND. I also appreciate my colleague from Maryland's helpful comments on this issue. Given her support, and in view of the unique circumstances that exist in the Pacific, I would be pleased to consider seriously the Senator from Hawaii's request to raise this issue in conference. The Senator from Hawaii should, however, bear in mind that any efforts we make, if any, must be made in the context of FEMA's overall budget.

Mr. AKAKA. I thank the managers of the bill for their thoughtful consideration of this matter. Any accommodation that can be achieved in conference regarding the emergency management needs of the Pacific would be very much appreciated. I yield the floor.●

RECOGNITION OF BERNARD L. BARELA

● Mr. BINGAMAN. Mr. President, I rise today in recognition of the retirement of Bernard L. Barela, District Director for the Albuquerque District after 34 years with the Internal Revenue Service.

Mr. Barela is a native of New Mexico whose family has been here for over 200 years. His mother, sister, and numerous family members still reside in the New Mexico area.

Mr. Barela served in the U.S. Navy from 1957 to 1959. Upon receiving an honorable discharge he returned to Albuquerque where he was a civilian employee.

Mr. Barela began his IRS career as a grade 3 mail clerk in the Phoenix District Office on 1961. He then became an office call interviewer in Phoenix until 1966.

After that he transferred to Las Vegas as a revenue officer until 1969 whereupon he became revenue officer group manager in San Bernardino, CA. In 1971, he moved to San Diego as chief of office branch and was selected as one of the first grade 13 group managers in collection in the Los Angeles District.

Mr. Barela moved to the field branch chief position in 1972 in San Diego and in 1973 marked his first return to Albuquerque as a collection and taxpayer service division chief. 1973 also marked another promotion for Mr. Barela as the collection division chief in New Orleans District. Mr. Barela served as executive assistant, to assistant regional commissioner, central region office in Cincinnati from 1975 to 1981.

In 1981, Mr. Barela entered the executive ranks of IRS, where he has served in several positions of increasing responsibility. Mr. Barela's first executive assignment was an assistant director, returns and processing in Washington, DC, during 1981. In 1985 Mr. Barela became the assistant director, service center in Atlanta. In 1989, Mr. Barela became assistant District Director in Fort Lauderdale where he assisted during the recovery after Hurricane Andrew. In 1993, Mr. Barela returned home to Albuquerque as the District Director, the highest State office with the IRS.●

PERSONAL RESPONSIBILITY ACT OF 1995

● Mr. NUNN. Mr. President, I rise to address H.R. 4, the Personal Responsibility Act of 1995, a bill to reform the Nation's welfare system.

H.R. 4 is a radical departure in Federal welfare policy. This bill would end a 60-year-old Federal entitlement to poor families with children under the Aid to Families With Dependent Children Program [AFDC]. In the place of AFDC, the Senate bill would create a Federal welfare block grant that will give almost $17 billion annually to State governments over the next 7 years to provide cash assistance, child care, job training, and other services to our Nation's poor. The States will have nearly complete flexibility to design and carry out these programs. The Federal Government requires only that the States impose a 5-year lifetime limit on welfare benefits and begin moving welfare recipients to work as rapidly as possible between now and the year 2000.

Opponents of H.R. 4 have talked extensively about this bill's flaws. It is said that the Federal money contained in the H.R. 4 is insufficient to meet the work requirements. We are told that funds for child care will make it impossible to care for the children of welfare recipients who go to work. Others have argued that States will cut welfare dramatically and set off a reverse bidding war as States reduce and eliminate benefits to avoid becoming welfare magnates.

Mr. President, I supported amendments to this legislation that address many of these concerns. I voted for Senator DODD's amendment that would have provided an additional $6 billion in Federal child care subsidies. We reached a compromise to increase Federal child care spending by some $3 billion. The Senate also agreed to require the States to continue spending at least 80 percent of their 1994 welfare dollars. I believe these amendments have significantly improved H.R. 4 and increased the likelihood that it will succeed in reducing welfare dependence.

The Senate also took up an amendment offered by Senator DOMENICI on the issue of limiting welfare benefit increases for women who have additional children while on welfare. When H.R. 4 emerged from the Finance Committee it allowed States to impose the so-called family cap but did not require it. The Dole substitute amendment made this policy mandatory. The Domenici amendment reinstated the state option on the family cap.

New Jersey, Georgia, and several other states have imposed family caps based on the premise that increases in benefits for new births encourage illegitimacy. My instincts tell me this is probably true and, at the State level, I would have voted for this experiment. At this point, however, there is simply no firm analytical evidence to support it. A Rutgers University study published earlier this year found that the New Jersey family cap had no effect on illegitimacy rates and may have increased the State's abortion rate. Until the States have accumulated enough experience with the family cap to show it is effective in reducing illegitimacy, I believe it should remain a State option but should not be mandated by the Federal Government.

Mr. President, I voted for the Dole substitute amendment to H.R. 4. I understand the concerns expressed by those who fear this legislation will not do enough to protect children whose parents have reached the end of their welfare time limits. If this bill becomes law, I believe its effects on the well-being of children should be monitored carefully. Further steps will likely be needed by Congress and the States to assure that children are adequately cared for.

Mr. President, H.R. 4 is unlikely to be the last word in welfare reform. The problems we are trying to address in this legislation—welfare dependency and the illegitimacy, violence, and drug abuse that it engenders—are probably the most complex, troubling, and intractable problems facing American society. Anyone who believes that they have the single set of reforms to solve these problems is wrong. As UCLA sociologist James Q. Wilson argued late last year in an essay entitled, ''A New Approach to Welfare Reform: Humility,'' what is really needed is the kind of State-based experimentation that might yield innovations that could be replicated by other States. I voted for H.R. 4 because I believe it offers the best opportunity to encourage this kind of experimentation. It is my hope that the conference between the Senate and the House will produce a compromise that I can also support.

Mr. President, I ask unanimous consent that the full text of the essay by James Q. Wilson be printed in the RECORD.

The essay follows:

[From the Wall Street Journal, Thursday, December 29, 1994]

FIRM FOUNDATIONS: A NEW APPROACH TO WELFARE REFORM: HUMILITY

(By James Q. Wilson)

We are entering the last years of the 20th century with every reason to rejoice and little inclination to do so, despite widespread prosperity, a generally healthy economy, the absence of any immediate foreign threat, and extraordinary progress in civil rights, personal health and school enrollment. Despite all this and more, we feel that there is something profoundly wrong with our society.

That communal life is thought to be deficient in many respects, plagued by crime, drug abuse, teenage pregnancy, WELFARE dependency and the countless instabilities of daily life. What these problems have in common in the eyes of most Americans is that they result from the weakening of the family.

Having arrived at something approaching a consensus, we must now face the fact that we don't know what to do about the problem. The American people are well ahead of their leaders in this regard. They doubt very much that government can do much of anything at all. They are not optimistic that any other institution can do much better, and they are skeptical that there will be a spontaneous regeneration of decency, commitment and personal responsibility.

I do not know what to do either. But I think we can find out, at least to the degree that feeble human reason is capable of understanding some of the most profound features of our condition.

The great debate is whether, how and at what cost we can change lives. If not the lives of this generation, then of the next. There are three ways of framing the problem.

First, the structural perspective: Owing to natural social forces, the good manufacturing jobs that once existed in inner-city areas have moved to the periphery, leaving behind decent men and women who are struggling to get by without work that once conferred both respect and money. Their place is now taken by street-wise young men who find no meaningful work, have abandoned the search for work, and scorn indeed the ethic of work.

Second is the rationalist perspective: Welfare benefits, including not only aid to Families with Dependent Children (AFDC), but also Medicaid, subsidized housing and Food Stamps, have become sufficiently generous as to make the formation of stable two-parent families either irrational or unnecessary. These benefits have induced young women wanting babies and a home of their own to acquire both at public expense, and have convinced young men, who need very little convincing on this score, that sexual conquest need not entail any personal responsibilities.

Third is the cultural perspective: Child rearing and family life as traditionally understood can no longer compete with or

bring under prudent control a culture of radical self-indulgence and oppositional defiance, fostered by drugs, television, video games, street gangs and predatory sexuality.

Now, a visitor from another planet hearing this discourse might say that obviously all three perspectives have much to commend themselves and, therefore, all three ought to be acted upon. But the public debate we hear tends to emphasize one or another theory and thus one or another set of solutions. It does this because people, or at least people who are members of the political class, define problems so as to make them amenable to those solutions that they favor for ideological or moral reasons. here roughly is what each analysis pursued separately and alone implies:

(1) Structural solutions. We must create jobs and job-training programs in inner-city areas, by means either of tax-advantaged enterprise zones or government-subsidized employment programs. As an alternative, we may facilitate the relocation of the inner-city poor to places on the periphery where jobs can be found and, if necessary, supplement their incomes by means of the earned-income tax credit.

(2) Rationalist solutions. Cut or abolish AFDC or, at a minimum, require work in exchange for welfare. Make the formation of two-parent households more attractive than single parenthood and restore work to prominence as the only way for the physically able to acquire money.

(3) Cultural solutions. Alter the inner-city ethos by means of private redemptive movements, supported by a system of shelters or group homes in which at-risk children and their young mothers can be given familial care and adult supervision in safe and drug-free settings.

Now, I have my own preferences in this menu of alternatives, but it is less important that you know what these preferences are than that you realize that I do not know which strategy would work, because so many people embrace a single strategy as a way of denying legitimacy to alternative ones and to their underlying philosophies.

Each of those perspectives, when taken alone, is full of uncertainties and inadequacies. These problems go back, first of all, to the structural solution. The evidence that links family dissolution with the distribution of jobs is, in fact, weak. Some people—such as many recent Latino immigrants in Los Angeles—notice that jobs have moved to the periphery from the city and board buses to follow the jobs. Other people notice the very same thing and stay home to sell drugs.

Now, even if a serious job mismatch does exist, it will not easily be overcome by enterprise zones. If the costs of crime in inner-city neighborhoods are high, they cannot be compensated for by very low labor costs or very high customer demand. Moreover, employers in scanning potential workers will rely, as they have always relied, on the most visible cues of reliability and skill—dress, manner, speech and even place of residence. No legal system, no matter how much we try to enforce it, can completely or even largely suppress these cues, because they have substantial economic value.

Second, let's consider some of the inadequacies of the rational strategy. After years of denying that the level of welfare payments had any effect on child-bearing, many scholars now find that states with higher payments tend to be ones in which more babies are born to welfare recipients; and when one expends the definition of welfare to include not only AFDC but Medicaid, Food Stamps and subsidized housing, increases in welfare were strongly correlated with increases in illegitimate births from the early 1960s to about 1980. At the point, the value of the welfare package in real dollars flattened out, but the illegitimacy rate continued to rise.

Moreover, there remain several important puzzles in the connection between welfare and child-bearing. One is the existence of great differences in illegitimacy rates across ethnic groups facing similar circumstances. Since the Civil War at least, blacks have had higher illegitimacy rates than whites, even though federal welfare programs were not invented until 1935.

These days, it has been shown that the illegitimacy rate among black women is more than twice as high as among white women, after controlling for age, education and economic status. David Hayes Bautista, a researcher at UCLA, compared poor blacks and poor Mexican-Americans living in California. He found that Mexican-American children are much more likely than black children to grow up in a two-parent family, and that poor Mexican-American families were only one-fifth as likely as black ones to be on welfare.

Even among blacks, the illegitimacy rate is rather low in states such as Idaho, Montana, Maine and New Hampshire, despite the fact that these states have rather generous welfare payments. And the illegitimacy rate is quite high in many parts of the Deep South, even though these states have rather low welfare payments.

Clearly, there is some important cultural or at least noneconomic factor at work, one that has deep historical roots and that may vary with the size of the community and the character of the surrounding culture.

Finally, the cultural strategy. Though I have a certain affinity for it, it has its problems, too. There are many efforts in many cities by public and private agencies, individuals and churches to persuade young men to be fathers and not just impregnators, to help drug addicts and alcoholics, to teach parenting skills to teenage mothers. Some have been evaluated, and a few show signs of positive effects. Among the more successful programs are the Perry Pre-School Project in Yipsilanti, Mich.; the Parent Child Development Center in Houston; the Family Development Research Project in Syracuse, N.Y.; and the Yale Child Welfare Project in New Haven, Conn. All of these programs produce better behavior, lessened delinquency, more success in school.

The Manhattan Institute's Myron Magnet (author of ''The Dream and the Nightmare: The Sixties' Legacy to the Underclass'') and I have both endorsed the idea of requiring young unmarried mothers to live in group homes with their children under adult supervision as a condition of receiving public assistance. I also have suggested that we might revive an institution that was common earlier in this century but has lapsed into disuse of late—the boarding school, sometimes mistakenly called an orphanage, for the children of mothers who cannot cope. At one time such schools provided homes and education for more than 100,000 young people in large cities.

Though I confess I am attracted to the idea of creating wholly new environments in which to raise the next generation of at-risk children, I must also confess that I do not know whether it will work. The programs that we know to be successful, like the ones mentioned above, are experimental efforts led by dedicated men and women. Can large versions of the same thing work when run by the average counselor, the average teacher? We don't know. And even these successes predated the arrival of crack on the streets of our big cities. Can even the best program salvage people from that viciously destructive drug? We don't know.

There is evidence that such therapeutic communities as those run by Phoenix House, headquartered in New York, and other organizations can salvage people who remain in them long enough. How do we get people to stay in them long enough? We don't know.

Now, if these three alternatives or something like them are what is available, how do we decide what to do? Before trying to answer that question, let me assert three precepts that ought to shape how we formulate that answer.

The first precept is that our overriding goal ought to be to save the children. Other goals—such as reducing the costs of welfare, discouraging illegitimacy, preventing long-term welfare dependency, getting even with Welfare cheats—may all be worthy goals, but they are secondary to the goal of improving the life prospects of the next generation.

The second precept is that nobody knows how to do this on a large scale. The debate has begun about welfare reform, but it is a debate, in large measure, based on untested assumptions, ideological posturing and perverse principles. We are told by some that worker training and job placement will reduce the welfare rolls, but we now know that worker training and job placement have so far had only a very modest effect. And few advocates of worker training tell us what happens to children whose mothers are induced or compelled to work, other than to assure us that somebody will supply day care.

The third precept that should guide us is that the federal government cannot have a meaningful family policy for the nation, and it ought not to try. Not only does it not know and cannot learn from experts what to do, whatever it thinks it ought to do, it will try to do in the worse possible way. Which is to say, uniformly, systematically, politically and ignorantly.

Now, the clear implication of these three precepts, when applied to the problem we face now, is that we ought to turn the task and the money for rebuilding lives, welfare payments, housing subsidies, the whole lot, over to cities and states and private agencies, subject to only two conditions. First, they must observe minimum for fundamental precepts of equal protection, and second, every major new initiative must be evaluated by independent observers operating in accordance with accepted scientific canons.

Some states or counties in this regime may end AFDC as we know it. Others may impose a mandatory work requirement. A few may require welfare recipients to turn their checks over to the group homes in which the recipients must reside or the boarding schools that their children must attend. Some may give the money to private agencies that agree to supply parent training, job skills and preschool education. Some may move welfare recipients out of the inner city and to the periphery.

Any given state government may do no better than Washington, but the great variety of the former will make up for the deadening uniformity of the latter. And within the states, the operating agencies will be at the city and county level, where the task of improving lives and developing character will be informed by the proximity of government to the voices of ordinary people.

Mr. Wilson is professor of management and public policy at UCLA. A longer version of this essay will appear in the Manhattan Institute's City Journal.●

INVESTIGATION OF CLASSIFIED DOCUMENT TRAFFICKING—CORRECTION OF THE RECORD

● Mr. GRASSLEY. Mr. President, this Senator would always wish to correct the record of any proceedings of the

Senate, or any of the committees of the Congress, when failure to do so might do an injustice.

Today it is appropriate to correct such a record, having to do with information presented to the Subcommittee on National Security Economics of the Joint Economic Committee, meeting at 10 a.m. on Wednesday, December 21, 1988. The record of the hearing was published in a collection of hearings of subcommittees of the Joint Economic Committee, Senate Hearing 100–1059 beginning at page 559.

The hearing in question concerned trafficking in classified documents of the Department of Defense, and how the Department of Defense and the Department of Justice dealt with those problems during the period 1983–88.

A staff report prepared by the staff of the Joint Economic Committee Subcommittee on National Security Economics and the investigative staff of my office was included in the hearing. The staff report contains some information, supplied by officials of the Defense Criminal Investigative Service, which is not correct.

It has been brought to my attention that some of that information may have cast an undeserved cloud upon one of the persons named in the report. Two individuals are named in this information, on page 2 of the staff report, in the following paragraph:

> The Ohio investigation revealed evidence of widespread trafficking in classified documents, involving at least ten contractors and 30 Pentagon officials, including high level civilian and military officials. The investigation resulted in the indictments of two officials, John McCarthy, who was then director of NASA Lewis Research Center, and James R. Atchison, an Air Force employee at the Wright-Patterson Base in Dayton, Ohio. McCarthy plead guilty in 1983 to a charge of filing false claims in connection with travel to Washington, D.C. Atchison resigned from the government and was not brought to trial.

Mr. President, I would like to correct several of the statements about Mr. James R. Atchison.

Mr. Atchison has never been indicted on any charges. This is confirmed in a letter to the Joint Economic Committee of October 6, 1992, from Mr. Derek J. Vander Schaaf, Deputy Inspector General of DOD.

Mr. Vander Schaaf notes that the focus of the investigative effort that led to Mr. Atchison was the unauthorized trafficking in classified documents. But there was no evidence resulting from any DOD or NASA investigation involving Mr. Atchison in any wrongdoing relating to classified documents. The Air Force took an adverse employee action against Mr. Atchison for other reasons.

Mr. Atchison has asked that the statements about him be corrected in the record, to the extent possible. I agree, Mr. President, that the record must be corrected, and that is what I have attempted to do here today. ●

RECOGNIZING THE DEDICATION AND SERVICE OF THE NEW JERSEY STATE FIRST AID COUNCIL

● Mr. BRADLEY. Mr. President, I rise today to pay tribute to the New Jersey State First Aid Council which is holding its 67th annual convention from October 5 through October 8.

The New Jersey State First Aid Council has its roots in Belmar, NJ where at the scene of a fire in 1929, Charles Measure, the council's founder, saw a badly injured police officer receive only blank stares and helpless shrugs from a crowd of onlookers who did not know what to do to help staunch the flow of blood. Although someone eventually stepped forward and saved the officer's life, the incident convinced Measure that there was a need for organized emergency response to such crisis situations. From the ashes of that confused and terrifying scene arose a new sense of security and purpose in the State, as the New Jersey State First Aid Council was born.

Developing a statewide organization was not easy, but Measure and his associates persisted until their idea became reality. In November of 1931, the eight squads came together to form the first district, and the council swung into action. Measure's decision to step forward and pioneer this first operation resulted in New Jersey trailblazing a path in first aid work in the United States.

Mr. President, for the last 64 years, the council has served our State in countless ways. They have faithfully followed the tenets of their original constitution: ''* * * to bring together all first aid and safety squads; to organize and promote first aid in a systematic manner; to assist all squads in the purchase of supplies and equipment; to standardize all equipment, especially inhalators; and to further advance first aid instruction in conjunction with the Red Cross.'' Over the last six decades, the council's membership has swelled to 448 squads with over 14,000 members throughout the State. The council has also worked to promote community education and awareness regarding significant health issues. In recent years, the council has worked tirelessly in support of legislation to fund the training of emergency medical technicians and in 1992 the First Aid Technician's Act was passed. The act assesses $0.50 for every moving motor vehicle violation for a fund to pay for training and recertification of EMT's. The council has over $4 million in its coffers that will eventually be disbursed for training.

I have often emphasized the inadequacy of relying purely on political means to solve problems in our society. Solutions are not to be found solely in maintaining alliance to a party, or in voting for a particular candidate, but are to be found in the development of a strong civic society and in confronting our problems at the community and family level. Therefore, I am happy to recognize the New Jersey State First Aid Council as an example of the volunteer spirit which I believe does more to strengthen our communities than many a bill or amendment.

The volunteers of the New Jersey State First Aid Council display an enormous amount of compassion and respect for their fellow human beings, as well as a tireless commitment to creating a safer living environment in our State. Robert W. Snowfield, president of the council, has said that being a volunteer EMT is ''something you must possess in your heart and mind.'' This is undoubtedly true, since the only reward these volunteers receive at the end of a long day is the satisfaction that their sacrifices have helped to make their own community a better place to live.

Mr. President, I applaud the efforts of this dynamic organization and its selfless, dedicated members and congratulate them on the occasion of their 67th annual convention.●

PEACE IN THE MIDDLE EAST

● Mr. DODD. Mr. President, earlier today I had the privilege of being present at the White House to witness the historic signing of the Interim Agreement on the West Bank and Gaza by Prime Minister of Israel Yitzhak Rabin and PLO Chairman Yasser Arafat. With the stroke of their pens, they have taken their people and all the peoples of the Middle East one step closer to lasting peace. Today is truly a day for celebration and prayers of thanks.

All of the efforts of those who were the enemies of peace could not deter these two brave leaders from their goal of finding the common ground that made this agreement a reality. Nor were President Clinton, Secretary Christopher, or Ambassador Dennis Ross prepared to cease their efforts as honest brokers to bridge last minute disagreements that stood in the way of finalizing the deal. I for one would like to commend the President, the Secretary, and all those who worked nonstop during this negotiating process—without their dedication, today's event would not have been possible.

Since the establishment of the State of Israel more than 47 years ago, the people of Israel have sought to live in peace with their neighbors in the Middle East. For too long Israeli efforts to reach out for peace and dialogue with its Arab counterparts were met with rejection and terrorism. Fortunately, that has now largely changed.

It is particularly fitting that Egyptian President Hosni Mubarak was among the leaders present at today's signing ceremony. After all, it was the Government of Egypt that was courageous enough to engage in the search for peace in that war-torn region. I remember the excitement, the hope, the inspiration that resulted from the signing of the 1978, Camp David Accords and the subsequent entry into force of the Israel-Egypt peace treaty in 1979.

Regrettably, it would take more than a decade before additional efforts to find a formula that would hold out the possiblity of resolving the complex issues with Israel's other Arab neighbors would bear fruit. Certainly the break up of the Soviet Union and the gulf war were defining moments that totally reshaped the political landscape in the Middle East and improved the prospect for peace. The seeds of today's agreement were clearly sown during the 1991 Madrid Conference with the road map outlined for resolving both bilateral and multilateral issues within the context of the Madrid Framework.

The key provisions of the interim agreement include elections of an 82-member Palestinian Council that will oversee most aspects of Palestinian life in the West Bank and Gaza, the elimination of offensive clauses from the Palestinian covenant that call for the elimination of Israel, assignment of responsibility for religious sites, the temporary deployment of an international observer delegation to Hebron, the redeployment of most Israeli troops from Palestinian cities and towns, and the staged release of prisoners.

This interim agreement is to remain in force through May 1999 and builds upon the September 1993 Declaration of Principles, in which Israel and the PLO exchanged mutual recognition, and the May 1994 Cairo agreement, which established a framework for Palestinian self-rule in the Gaza Strip and Jericho.

We can all be justly proud of the enormous progress that has been made to undo the destruction and distrust that are the byproduct of decades of hatred and havoc. I for one am confident that the trust and good will that has been created by the peace process thus far will energize all parties to resolve all the remaining issues that stand in the way of a permanent agreement.

I do not seek to minimize the difficulties of the issues that remain to be resolved. They include matters related to boundaries, to the nature of the Palestinian entity, to the future of Jewish settlements in Palestinian areas, to the disposition of refugees, and finally to the status of Jerusalem. However, it is clear to me that the people of the Middle East are committed to finding a comprehensive solution to all the disagreements that have stood in the way of a permanent and lasting peace. I believe that we in the United States stand ready to do all that we can to facilitate that effort.●

WORLD MARITIME DAY 1995

● Mr. STEVENS. Mr. President, as you may know, World Maritime Day 1995 will be observed this week, and the theme this year focuses on the achievements and challenges of the International Maritime Organization [IMO].

The IMO was created under the auspices of the United Nations in 1948, and over the past 47 years has led the way to significant improvements in safety in the maritime industry and reductions in marine pollution around the world.

I ask that the letter sent to me by Coast Guard Capt. Guy Goodwin, which brought World Maritime Day 1995 to my attention, be printed in the RECORD.

Captain Goodwin provided me with a copy of the message delivered by IMO Secretary-General William O'Neil to commemorate World Maritime Day, and I ask that this, too, be printed in the RECORD.

I believe both Captain Goodwin and IMO Secretary-General O'Neil make important points about the need to continue to strive for safer shipping and cleaner oceans, and I encourage other Senators to read these messages.

The material follows:

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,

Hon. TED STEVENS,
Chairman, Subcommittee on Oceans on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The International Maritime Organization has announced that World Maritime Day 1995 will be observed during the week of September 25 to 29, 1995. The theme for this year's observance is ''50th Anniversary of the United Nations: IMO's Achievements and Challenges''. As you know, Mr. Chairman, IMO has succeeded in winning the support of the Maritime world by being pragmatic, effective and above all by concentrating on the technical issues related to safety at sea and the prevention of pollution from ships, topics that are of most concern to its member states IMO's priorities are often described in the slogan ''safer shipping and cleaner oceans.''

Until recently the indications were that IMO'S efforts to improve safety and reduce pollution were paying off. The rate of serious casualties was falling and the amount of all and other pollutants entering the sea was decreasing quite dramatically. But recently there has been a disturbing rise in accidents and our fear is that, if nothing is done, the progress we have diligently fought for over the last few decades will be lost. To avert this danger, IMO has taken a number of actions including establishing a sub-committee to improve the way IMO regulations are implemented by flag States, encouraging the establishment of regional port State control arrangements, adopting a new mandatory International Safety Management Code, and adopting amendments to the convention dealing with standards of training, certification and watchkeeping for seafarers. When these and other measures are added together they make an impressive package that should make a significant contribution to safety and pollution prevention in the years to come. The Coast Guard has been an active player at IMO regarding these and other matters.

Enclosed is a message from the Secretary-General of the IMO, Mr. W. A. O'Neil, marking the observance of World Maritime Day 1995.

Sincerely,

G. T. GOODWIN,
Captain, USCG,
Chief, Congressional Affairs.

Encl: World Maritime Day Message of Secretary General O'Neil. ——

WORLD MARITIME DAY 1995

Fifty years ago the United Nations was created. When people consider the United Nations today, most think only of the headquarters in New York or peacekeeping missions around the world. Very few people know that the United Nations indeed has another side.

This side, of course, consists of the specialized agencies of the U.N. system which deal with such matters as the development of telecommunications, the safety of aviation, the peaceful uses of nuclear energy, the improvement of education, the world's weather, and international shipping, the particular responsibility of the International Maritime Organization.

IMO was established by means of a convention which was adopted under the auspices of the United Nations in 1948 and today has 152 Member States. Its most important treaties cover more than 98 percent of world shipping.

IMO succeeded in winning the support of the maritime world by being pragmatic, effective and above all by concentrating on the technical issues related to safety at sea and the prevention of pollution from ships, topics that are of most concern to its Member States. IMO's priorities are often described in the slogan ''safer shipping and cleaner oceans.''

But today I do not want to focus on past successes. Instead I would like to talk to you about the future. Nobody can predict precisely what will happen in the shipping world during the next few years but there are indications that, from a safety point of view, we should be especially vigilant.

The difficult economic conditions of the last two decades have discouraged shipowners from ordering new tonnage and there is evidence that, in some cases, the maintenance of vessels has suffered. The combination of age and poor maintenance has obvious safety implications. Shipping as an industry is also undergoing great structural changes that have resulted in the fleets of the traditional flags declining in size while newer shipping nations have emerged.

IMO has no vested interest in what flag a ship flies or what country its crew members come from. But we are interested in the quality of the operation. We certainly can have no objection to shipowners saving money—unless those savings are made at the expense of safety or the environment. If that happens then we are very concerned indeed.

Until recently the indications were that IMO's efforts to improve safety and reduce pollution were paying off. The rate of serious casualties was falling and the amount of oil and other pollutants entering the sea was decreasing quite dramatically. But recently there has been a disturbing rise in accidents and our fear is that, if nothing is done, the progress we have diligently fought for over the last few decades will be lost. To avert this danger IMO has taken a number of actions.

We have set up a special sub-committee to improve the way IMO regulations are implemented by flag States.

We have encouraged the establishment of regional port State control arrangements so that all countries which have ratified IMO Conventions and have the right to inspect foreign ships to make sure that they meet IMO requirements can do this more effectively.

We have adopted a new mandatory International Safety Management Code to improve standards of management and especially to make sure that safety and environmental issues are never overlooked or ignored.

We have recently adopted amendments to the convention dealing with standards of training, certification and watchkeeping for seafarers. The Convention has been modernized and restructured, but most important of

all, new provisions have been introduced which will help to make sure that the Convention is properly implemented.

When these and other measures are added together they make an impressive package that should make a significant contribution to safety and pollution prevention in the years to come. But I think we need something more.

IMO's standards have been so widely adopted that they affect virtually every ship in the world. Therefore, in theory, the casualty and pollution rates of flag States should be roughly the same but in actual practice they vary enormously. That can only be because IMO regulations are put into effect differently from country to country. The measures I have just outlined will help to even out some of these differences, but they will only really succeed if everybody involved in shipping wants them to.

That sounds simple enough. Surely everybody is interested in safety and the prevention of pollution and will do what they can to promote them? To a certain degree perhaps they are—but the degree of commitment seems to vary considerably. The majority of shipowners accept their responsibilities and conduct their operations with integrity at the highest level.

Some others quite deliberately move their ships to different trading routes if Governments introduce stricter inspections and controls: they would rather risk losing the ship and those on board than to undertake and pay for the cost of carrying out the repairs they know to be necessary. Some Governments are also quite happy to take the fees for registering ships under their flag, but fail to ensure that safety and environmental standards are enforced.

The idea that a ship would willingly be sent to sea in an unsafe condition and pose a danger to its crew is difficult to believe and yet it does happen.

The reasons for this are partly historical. We have become so used to the risks involved in seafaring that we have come to see them as a cost that has to be paid, a price which is exacted for challenging the wrath of the oceans. We must change this attitude, this passive acceptance of the inevitability of disaster. When a ship sinks we should all feel a sense of loss and failure, because accidents are not inevitable—they can and should be prevented.

The actions taken by IMO during the last few years will undoubtedly help to improve safety and thereby save lives, but they will have an even more dramatic effect if they help to change the culture of all those engaged in shipping and make safety not just a vague aspiration but a part of every day living, so that it comes as second nature. This is a clear, precise target—a target that is within our grasp if we continue to put our minds and energies to the task.

Fifty years ago, when the United Nations was being planned, few people believed that there would ever be an effective international organization devoted to shipping safety. But, in the same spirit that led to the founding of the United Nations, IMO itself was born. The vision which led to this has been realized and seafarers of the world have benefitted as a result.

However, casualties still do occur and much remains to be done by IMO, by its Member Governments, by the shipping industry and by the seafarers who crew the world's ships, in fact, by all of us involved in shipping. The waters are not uncharted, the course is known, the destination is clear. It is up to us to conduct the voyage in such a way that our objective of maximum safety is in fact realized.●

SCHOOLS FOR THE DEAF AND THE BLIND

● Mr. ROCKEFELLER. Mr. President, I would like to take this opportunity to commend the West Virginia Schools for the Deaf and the Blind for 125 years of service to students with disabilities in my State.

On this very day, September 28 in 1870 the doors of the West Virginia. Schools for the Deaf and the Blind were first opened in the small community of Romney, WV. At that time, 25 deaf and 5 blind children were enrolled that first year in classes in a modest facility. Since that time, literally thousands of men and women of all ages with hearing and/or visual disabilities have passed through the hallowed halls of the West Virginia Schools for the Deaf and the Blind.

Today, hundreds of individuals receive a variety of services through programs offered by these schools—programs like Be a Star, which earned national recognition in the 1993–94 school year as a model for hearing and visually impaired youth as volunteers. People assume that students with disabilities are the recipients of community service initiatives but through Romney's program, the handicapped students were able to get involved in community service projects and make their own personal contributions to the local community which has supported the institution for more than a century. Currently during the 1994–95 school year, the institution is implementing the Stars for Others Program. The goal, once again, is to let students be the leaders they can be in their respective communities. The school expects this year to log over 5,000 hours of staff and student volunteer hours of public service, and I am quite proud of this initiative.

In addition to the regular educational programs offered on campus, over 100 preschoolers and their families receive services through special outreach programs. More than 450 students with visual disabilities throughout our State receive Braille and large print materials through the Instructional Resource Center. Over 250 individuals receive talking books through a loan program coordinated by the Library of Congress. Captioned films are made available through the Captioned Film Depository. Each year, many children with hearing and/or visual disabilities participate in the Preschool Diagnostic and Evaluation Program and in the summer enrichment programs.

This is a tremendous institution striving to improve its services and enhance the quality of life for students with disabilities so that they can live as independently as possible. The efforts made daily by every administrator, every teacher, every individual associated with the West Virginia Schools for the Blind and the Deaf have opened many doors to people with disabilities, and given them opportunities for jobs and freedom that they may not have otherwise. The schools have stressed that a physical impediment should not be a wall that blocks students from the life, but that they too can overcome challenges and play a vital role in our society. I share this view and am proud of the tremendous progress made by our society over time in recognizing the potential of individuals with disabilities. This institution has contributed a great deal to helping ensure that every American, regardless of disability, should have the chance to be happy, productive members of our society.

The West Virginia Schools for the Deaf and the Blind make a very real difference in the lives of students and their families. With great pride, and on behalf of all of West Virginia, I send my warmest congratulations on such a special anniversary, as well as best wishes for more years of service.●

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the following Senators as Members of the Senate Delegation to the North Atlantic Assembly fall meeting during the first session of the 104th Congress, to be held in Turin, Italy, October 5–9, 1995: The Senator from Mississippi, Mr. COCHRAN; the Senator from Iowa, Mr. GRASSLEY; the Senator from Alaska, Mr. MURKOWSKI; the Senator from Washington, Mr. GORTON; and the Senator from Hawaii, Mr. AKAKA.

TRUTH IN LENDING ACT AMENDMENTS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2399 just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2399) to amend the Truth in Lending Act to clarify the intent of such act and to reduce burdensome regulatory requirements on creditors.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. D'AMATO. Mr. President, I rise today to voice my support for the Truth in Lending Act Amendments of 1995. Our colleagues in the House recently passed this legislation. It is the product of bipartisan cooperation between the Senate and the House. The broad bipartisan support that this bill has attracted is evidence of the urgency of the situation that it addresses. As chairman of the Banking Committee, I believe that immediate action

is warranted. I would therefore encourage my colleagues to immediately consider and pass H.R. 2399.

Mr. President, H.R. 2399 is intended to curtail the devastating liability that threatens our housing finance system in the wake of the Eleventh Circuit Court of Appeals' recent decision in Rodash versus AIB Mortgage Co. The Rodash case produced an onslaught of over 50 class action suits. The majority of these suits demanded the most draconian remedy available under Truth in Lending—rescission. When a loan is rescinded, the borrower is released from the obligation under the mortgage. Currently, there are dozens of Rodash-styled class action suits pending. If rescission is granted in a class action lawsuit, every class member would be entitled to reimbursement of all finance charges, as well as other charges.

The threat of wholesale rescissions presents a real danger to our modern system of home financing: potential liability that could reach into the billions. Last spring we enacted H.R. 1380, a class action moratorium. We enacted this moratorium to allow both Houses time to craft a solution. The moratorium expires on October 1, 1995—so now is the time to act.

Mr. President, I cannot overemphasize the threat to our mortgage lending system and the secondary markets that provide the mortgage market with liquidity. And we cannot forget that the liquidity of the mortgage markets has helped millions of Americans obtain their dream of home ownership at lower costs.

H.R. 2399 is the result of much hard work and represents a commonsense compromise to a highly technical problem. H.R. 2399 provides greater certainty for lenders without eliminating the substantive protection available to consumers. I would like to summarize some of the important provisions of this bill:

First, this bill provides retroactive relief from Rodash-styled class actions that are pending certification.

H.R. 2399 also clarifies the treatment of certain fees for the purposes of the Truth-in-Lending disclosures.

This legislation provides greater flexibility, or tolerance, for honest mistakes that result in technical violations and can produce a litigation morass. The current tolerances provided under the law are unreasonably low, especially in the context of the 3-year right of rescission.

Two tolerances are established for rescission purposes. The tolerance formulas are based on the size of the loan in question. A smaller tolerance is established for standard nonpurchase money mortgages. If a borrower receives money from a refinance, only that money is subject to rescission. A larger tolerance is available in no new money refinancings. No new money refinancings are used by consumers to take advantage of declining interest rates. In these refinancings, no advances—other than loan proceeds that might be used to finance closing costs, which are not deemed to be new advances—are received by the consumer.

H.R. 2399 clarifies the liability of assignees and loan servicers under Truth in Lending. These clarifications will provide greater certainty for the secondary market and help enhance liquidity of the mortgage market in general.

H.R. 2399 also contains substantive protection for consumers. It retains the 3 day right rescission, and creates a right of rescission in the mortgage foreclosure context.

The Truth in Lending Act requires lenders to provide consumers with notice of their right to rescind in certain transactions. However, the requirements concerning the form of notice to be provided are ambiguous. This bill eliminates liability when the incorrect form of rescission notice was given to the borrower in a closed-end transaction as long as the consumer received a completed form, whether the form was one of the model forms published by the Federal Reserve Board or a comparable form. The addition of the requirement that the lender otherwise complied with all the requirements of this section regarding notice is intended to make clear that the lender will continue to have liability for any violation of this title that is unrelated to the form of notice, such as a misdisclosure of the APR that exceeds the tolerance. However, the lender will not be penalized for the form of notice it provided.

While any of us might take issue with any of the particular provisions in this bill, on balance it represents a workable solution, and demonstrates congressional resolve in the face of a tremendous problem. I urge all my colleagues to support this important legislation and pass it immediately, without amendments.

Mr. SARBANES. Mr. President, I rise in support of H.R. 2399, the Truth in Lending Act Amendments of 1995. This bill represents a solution to the so-called Rodash problem.

I would like to begin by commending the chairman of the Senate Banking Committee, Senator D'AMATO, the chairman and ranking member of the House Banking Committee, Representative LEACH, Representative GONZALEZ, Representative MCCOLLUM, and Representative VENTO for their cooperation in working out a bipartisan resolution of this problem. In my view, it responds to legitimate concerns raised by the financial industry but preserves the basic consumer protections of the Truth in Lending Act.

The Rodash problem arose from a court decision last year in which small violations of the disclosure requirements of the Truth in Lending Act triggered the right of rescission provided by the act. That decision, in turn, resulted in the filing of class action lawsuits against creditors for small violations of the disclosure requirements. The Congress placed a moratorium on such lawsuits in order to provide time to sort out this issue and clarify the statute. The moratorium expires on October 1. It is therefore important for the Congress to act expeditiously on a permanent solution to the Rodash problem.

The House Banking Committee included a response to the Rodash problem in a larger banking bill reported out of the committee earlier this year. That bill, in my view, went beyond fixing the Rodash problem. If passed, it would have weakened the Truth in Lending Act and undermined critical consumer protections.

In order to enact a solution to the Rodash problem before the moratorium expires, agreement was reached to try to move the Rodash package as a separate bill. Negotiations were undertaken between the House and Senate, and a compromise was reached which is contained in H.R. 2399. The House passed H.R. 2399 on Wednesday by unanimous consent. The Senate will do so today.

The bill before the Senate today improves significantly the measure passed by the House Banking Committee. Under the original House bill, consumers would have lost the right of rescission for a whole class of loans even if the most egregious violations of the Truth in Lending Act were committed. The bill before the Senate preserves that vital consumer protection.

The original House bill also would have eliminated, for an entire class of mortgage loans, the borrower's right to a 3-day cooling off period after closing on a loan. The bill before the Senate retains that cooling off period.

Moreover, the bill before the Senate protects the most vulnerable citizens from abusive lenders. It provides consumers with truth in lending protections when faced with foreclosure. This bill will help many elderly people keep their homes.

This bill increases the tolerance for statutory damages, lifting the bar that determines what constitutes a violation. This bill does not increase the tolerance as much as the original House bill. This is important because a low tolerance is needed to ensure that consumers are receiving accurate information about the cost of credit.

This increased tolerance for errors is intended to protect lenders from the small errors in judgment that occurred in the Rodash case. It is obviously not intended to give lenders the right to pad fees up to the tolerance limit of $100. For example, if a delivery associated with the closing cost on a home mortgage costs $30, $30 should be charged and disclosed as part of the finance charge. A lender cannot arbitrarily raise the charge an additional $70 simply because there is a wider tolerance.

The purpose of the Truth in Lending Act is to require disclosure to consumers of the cost of their credit. An outstanding problem remains that there are too many exclusions and exemptions that blur the bottom line. The

bill directs the Federal Reserve to report to Congress and develop regulations to ensure that all charges related to the extension of credit are included in the finance charges. Lenders and consumers agree that it is important to alleviate confusion over the treatment of fees in the finance charge. The Federal Reserve has 1 year to develop these regulations.

The bill specifically exempts certain charges from the finance charge, including third party fees, taxes on security instruments, fees for preparations of loan documents, and fees relating to pest infestations. The purpose of the exemptions is to provide some clarity on the treatment of those fees until the Fed acts to ensure that the finance charge definition more accurately reflects the cost of providing credit. The fact that these exemptions are included does not create a presumption or requirement for the Fed to exclude them from the definition of finance charges. The Fed should include all charges in the finance charge unless those charges are not related to the extension of credit. I look forward to the Federal Reserve's action and I am hopeful this will lead to simpler and more common sense disclosure.

Mr. President, I am pleased that a reasonable agreement, embodied in H.R. 2399, has been reached to address the Rodash problem. I urge my colleagues to support this bill.

Mr. MACK. Mr. President, the Truth in Lending Act Amendments of 1995 will finally bring an end to the massive potential liability facing the mortgage industry as a result of extraordinary penalties under the Truth in Lending Act [TILA] for technical errors. Recognizing the threat to mortgage lending, we placed a moratorium on class actions for certain technical violations under TILA to give us an opportunity to develop a solution. The Truth in Lending Act Amendments of 1995 provide that solution.

This bill does a number of important things. First, it provides retroactive relief to the mortgage industry from the extreme potential liability that was caused by the Rodash versus AIB Mortgage Co. case. This problem, which seriously threatened the viability of residential mortgage lending in this country including the mortgage-backed securities markets, was caused by the ambiguity surrounding the proper treatment of certain charges, and the extremely low tolerance for any error in making disclosures. The current treatment of fees, such as mortgage broker fees, has been challenged in litigation. It is not fair to subject a lender to extreme penalties for their treatment of these fees, which some are now trying to recharacterize as finder's fees. The entire industry historically excluded these fees from the finance charge, without regard to whether the broker received yield spread premiums or other types of compensation from the lender—known or unknown to the borrower—or whether the broker is acting as an agent of the borrower, the lender or both. Based upon the preexisting language of TILA, Regulation Z and the Federal Reserve Board commentary—particularly 4(a)–3, this exclusion is manifestly correct. However, it seems proper to eliminate any issue whatsoever. With this legislation, lenders will now be able to get on with the business of making loans.

Second, the bill prospectively clarifies the treatment of specific charges such as tangible taxes and courier fees. This gives creditors greater certainty and provides consumers with more accurate disclosures through uniform treatment of charges. The Federal Reserve is also directed to review the finance charge disclosure and make recommendations to improve it. Specifically we are looking for recommendations that make the finance charge disclosure more accurately reflect the cost of credit. In addition, we would like suggestions on how to eliminate any abusive practices that have developed in the reporting of the finance charge.

Third, recognizing the highly technical nature of the Truth in Lending Act, the bill raises the tolerance level for understated disclosures for all future transactions from $10 to $100 for civil liability purposes. For errors which can lead to rescission of the loan, which is a much more extreme penalty, the tolerance is ½ of 1 percent of the loan amount. However, for certain refinance loans where the refinancing borrower did not receive additional new advances from the creditor, the tolerance is 1 percent of the loan amount. In accordance with current Federal Reserve regulations, funds to finance the closing costs of the transaction do not constitute new advances.

Fourth, the bill clarifies that loan servicers are not assignees for purposes of Truth in Lending liability if they only own legal title for servicing purposes.

Fifth, the bill raises the statutory damages for individual actions from $1,000 to $2,000. Statutory damages are provided in TILA because actual damages, which require proof that the borrower suffered a loss in reliance upon the inaccurate disclosure, are extremely difficult to establish.

Sixth, the bill preserves the consumer's 3-day rescission period for all refinance loans with different creditors. As currently set forth in the Truth in Lending Act, this cooling off period expires in 3 years. Contrary to some court decisions which have allowed this rescission period to extend for as long as 8 years after the loan was closed in the context of recoupment, the existing statutory language is clear: 3 years means 3 years and the time period shall not be extended except as explicitly provided in section 125(f).

Moreover, as is currently set forth in the Federal Reserve regulations, when a borrower refinances an existing loan and takes out new money, only the new money is subject to rescission.

This legislation is critical to avert what could be a financial disaster in the mortgage industry. I appreciate the bipartisan effort to fix the problems with the Truth in Lending Act while still protecting the rights of the consumers and I urge the adoption of this bill.

Mr. GRAMM. I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill appear at the appropriate place in the RECORD as if read.

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

So the bill (H.R. 2399) was deemed read a third time and passed.

SMALL BUSINESS LENDING ENHANCEMENT ACT OF 1995—CONFERENCE REPORT

Mr. GRAMM. Mr. President, I submit a report of the committee of conference on S. 895 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 895) to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

Mr. GRAMM. Mr. President, I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and that any statement related to the conference report be included in the RECORD at the appropriate place.

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

So the conference report was agreed to.

EXPENDITURES FOR OFFICIAL OFFICE EXPENSES

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 176, submitted earlier today by Senators WARNER and FORD.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A resolution (S. Res. 176) relating to expenditures for official office expenses.

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

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAMM. Mr. President, I ask unanimous consent that the resolution be agreed to, that the motion to reconsider be laid upon the table, and that any statements related to the resolution appear at the appropriate place in the RECORD.

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

So the resolution (S. Res. 176) was agreed to, as follows:

S. RES. 176

Resolved, That section 2(3) of Senate Resolution 294, Ninety-sixth Congress, agreed to April 29, 1980, is amended—

(1) By striking ''and'' after ''Capitol'' and inserting a comma; and

(2) by inserting before the semicolon at the end the following: '', and copies of the calendar 'We The People' published by the United States Capitol Historical Society''.

SEC. 2. Copies of the calendar ''We The People'' published by the United States Capitol Historical Society shall be deemed to be Federal publications described in section 6(b)(1)(B)(v) of Public Law 103–283.

ATTORNEY'S FEES EQUITY ACT

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 10, S. 144.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A bill (S. 144) to amend section 526 of title 28, United States Code, to authorize awards of attorney's fees.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. GRAMM. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements related to the bill be printed at the appropriate place in the RECORD.

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

So the bill (S. 144) was deemed read the third time and passed, as follows:

S. 144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARDS OF ATTORNEYS FEES.

(a) SHORT TITLE.—This Act may be cited as the ''Attorney's Fees Equity Act of 1995''.

(b) AWARDS OF ATTORNEY'S FEES.—Section 526 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(c)(1)(A) A current or former Department of Justice attorney; agent; or employee who supervises an agent who is the subject of a criminal or disciplinary investigation, instituted on or after the date of enactment of this subsection, arising out of acts performed in the discharge of his or her duties in prosecuting or investigating a criminal matter, who is not provided representation under Department of Justice regulations, shall be entitled to reimbursement of reasonable attorney's fees incurred during and as a result of the investigation if the investigation does not result in adverse action against the attorney, agent, or employee.

''(B) A current or former attorney; agent; or employee who supervises an agent employed as or by a Federal public defender who is the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this subsection, arising out of acts performed in the discharge of his or her duties in defending or investigating a criminal matter in connection with the public defender program, who is not provided representation by a Federal public defender or the Administrative Office of the United States Courts is entitled to reimbursement of reasonable attorney's fees incurred during and as a result of the investigation if the investigation does not result in adverse action against the attorney, agent, or employee.

''(2) For purposes of paragraph (1), an investigation shall be considered not to result in adverse action against an attorney, agent, or employee if—

''(A) in the case of a criminal investigation, the investigation does not result in indictment of, the filing of a criminal complaint against, or the entry of a plea of guilty by the attorney, agent, or supervising employee; and

''(B) in the case of a disciplinary investigation, the investigation does not result in discipline or results in only discipline less serious than a formal letter of reprimand finding actual and specific wrongdoing.

''(3) The Attorney General shall provide notice in writing of the conclusion and result of an investigation described in paragraph (1).

''(4) An attorney, agent, or supervising employee who was the subject of an investigation described in paragraph (1) may waive his or her entitlement to reimbursement of attorney's fees under paragraph (1) as part of a resolution of a criminal or disciplinary investigation.

''(5) An application for attorney fee reimbursement under this subsection shall be made not later than 180 days after the attorney, agent, or employee is notified in writing of the conclusion and result of the investigation.

''(6) Upon receipt of a proper application under this subsection for reimbursement of attorney's fees, the Attorney General and the Director of the Administrative Office of the United States Courts shall award reimbursement for the amount of attorney's fees that are found to have been reasonably incurred by the applicant as a result of an investigation.

''(7) The official making an award under this subsection shall make inquiry into the reasonableness of the amount requested, and shall consider—

''(A) the sufficiency of the documentation accompanying the request;

''(B) the need or justification for the underlying item;

''(C) the reasonableness of the sum requested in light of the nature of the investigation; and

''(D) current rates for equal services in the community in which the investigation took place.

''(8)(A) Reimbursements of attorney's fees ordered under this subsection by the Attorney General shall be paid from the appropriation made by section 1304 of title 31, United States Code.

''(B) Reimbursements of attorney's fees ordered under this Act by the Director of the Administrative Office of the United States Courts shall be paid from appropriations authorized by section 3006A(i) of title 18, United States Code.

''(9) The Attorney General and the Director of the Administrative Office of the United States Courts may delegate their powers and duties under this subsection to an appropriate subordinate.''.

BANKRUPTCY CODE REFERENCE CORRECTIONS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 190, S. 977.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 977) to correct certain references in the Bankruptcy Code.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. GRAMM. I ask unanimous consent, Mr. President, that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

So, the bill (S. 977) was deemed read three times and passed, as follows:

S. 977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCE.

Section 1228 of title 11, United States Code, is amended by striking ''section 1222(b)(10)'' each place it appears and inserting ''section 1222(b)(9)''.

BIOTECHNOLOGICAL PROCESSES PATENTS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 191, S. 1111.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1111) to amend title 35, United States Code, with respect to patents on biotechnological processes.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. GRAMM. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

So, the bill (S. 1111) was deemed read three times and passed as follows:

S. 1111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BIOTECHNOLOGICAL PROCESS PATENTS; CONDITIONS FOR PATENTABILITY; NONOBVIOUS SUBJECT MATTER.

Section 103 of title 35, United States Code, is amended—

(1) by designating the first paragraph as subsection (a);

(2) by designating the second paragraph as subsection (c); and

(3) by inserting after the first paragraph the following:

''(b)(1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a biotechnological process using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if—

''(A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effective filing date; and

''(B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.

''(2) A patent issued on a process under paragraph (1)—

''(A) shall also contain the claims to the composition of matter used in or made by that process, or

''(B) shall, if such composition of matter is claimed in another patent, be set to expire on the same date as such other patent, notwithstanding section 154.

''(3) For purposes of paragraph (1), the term 'biotechnological process' means—

''(A) a process of genetically altering or otherwise inducing a single- or multi-celled organism to—

''(i) express an exogenous nucleotide sequence,

''(ii) inhibit, eliminate, augment, or alter expression of an endogenous nucleotide sequence, or

''(iii) express a specific physiological characteristic not naturally associated with said organism;

''(B) cell fusion procedures yielding a cell line that expresses a specific protein, such as a monoclonal antibody; and

''(C) a method of using a product produced by a process defined by (A) or (B), or a combination of (A) and (B).''.

SEC. 2. PRESUMPTION OF VALIDITY; DEFENSES.

Section 282 of title 35, United States Code, is amended by inserting after the second sentence of the first paragraph the following: ''Notwithstanding the preceding sentence, if a claim to a composition of matter is held invalid and that claim was the basis of a determination of nonobviousness under section 103(b)(1), the process shall no longer be considered nonobvious solely on the basis of section 103(b)(1).''.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 1 shall apply to any application for patent filed on or after the date of enactment of this Act and to any application for patent pending on such date of enactment, including (in either case) an application for the reissuance of a patent.

CIRCUIT JUDGE AUTHORIZATION

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 133, S. 531.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 531) to authorize a circuit judge who has taken part in an en banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment; as follows:

(The parts of the bill intended to be struck through are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT.

[The last sentence of section 46(c) of title 28, United States Code, is amended by striking ''as a member'' and all that follows through the period and inserting the following: ''as a member of an in banc court—

[''(1) reviewing a decision of a panel of which such judge was a member; or

[''(2) continuing to participate in the decision of a case or controversy that was heard or reheard by the court in banc at a time when such judge was in regular active service.''.**]**

The last sentence of section 46(c) of title 28, United States Code, is amended by inserting ''(1)'' after ''eligible'' and by inserting before the period at the end of the sentence '', or (2) to continue to participate in the decision of a case or controversy that was heard or reheard by the court in banc at a time when such judge was in regular active service''.

Mr. GRAMM. Mr. President, I ask unanimous consent that the committee amendment be agreed to, that the bill then be deemed read a third time, passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

So the bill (S. 531), as amended, was passed, as follows:

S. 531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT.

The last sentence of section 46(c) of title 28, United States Code, is amended by inserting ''(1)'' after ''eligible'' and by inserting before the period at the end of the sentence '', or (2) to continue to participate in the decision of a case or controversy that was heard or reheard by the court in banc at a time when such judge was in regular active service''.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1995

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 178, S. 1147.

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

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1147) to extend and reauthorize the Defense Production Act of 1950, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. GRAMM. Mr. President, I ask unanimous consent that the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

So the bill (S. 1147) was deemed read the third time, and passed, as follows:

S. 1147

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 ''Defense Production Act Amendments of 1995''.

SEC. 2. EXTENSION OF PROGRAMS.

Section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended in the first sentence, by striking ''Title I (except section 104), title III, and title VII (except sections 708, 714, 719 and 721) of this Act, and all authority conferred thereunder, shall terminate at the close of September 30, 1995'' and inserting ''Title I (except section 104), title III, and title VII (except sections 708 and 721) of this Act, and all authority conferred thereunder, shall terminate at the close of September 30, 1998''.

SEC. 3. AUTHORIZING APPROPRIATIONS FOR TITLE III PROJECTS.

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) in subsection (a), by striking ''(a) AUTHORIZATION.—'' and all that follows through ''subsection (c),'' and inserting the following:

''(a) AUTHORIZATION.—Except as provided in subsection (b),''; and

(2) by striking subsections (b) through (d) and inserting the following:

''(b) TITLE III AUTHORIZATION.—There are authorized to be appropriated for each of fiscal years 1996, 1997, and 1998, such sums as may be necessary to carry out title III.''.

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The Senate continued with the consideration of the bill.

Mr. GRAMM. Mr. President, I ask unanimous consent to continue the consideration of H.R. 2076 in order to reconsider and table the vote by which the managers' amendment was agreed to.

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

Mr. GRAMM. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR FRIDAY, SEPTEMBER 29, 1995

Mr. GRAMM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m.

on Friday, September 29, 1995, that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day and the Senate then proceed to the consideration of the State, Justice, Commerce appropriations bills under the previous order of 60 minutes on the McCain amendment.

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

PROGRAM

Mr. GRAMM. Mr. President, for the information of all Senators, the Senate will begin consideration of State, Justice, Commerce appropriations at 9 a.m., and two votes will occur at 10 a.m., with 4 minutes of debate between the two stacked votes.

Immediately following the two votes, the Senate will resume consideration of the Domenici amendment.

Senators should be on notice that tomorrow's session of the Senate is expected to be very late in order to complete action on the remaining appropriations bills prior to the end of the fiscal year.

RECESS UNTIL 9 A.M. TOMORROW

Mr. GRAMM. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:52 p.m., recessed until Friday, September 29, 1995, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate September 38, 1995:

THE JUDICIARY

JAMES L. DENNIS, OF LOUISIANA, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.