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Senate

The Senate met at 9:30 a.m., and was called to order by the Honorable CONRAD R. BURNS, a Senator from the State of Montana.

The PRESIDING OFFICER. The morning prayer will be recited by the Senate Chaplain, Lloyd John Ogilvie.

PRAYER

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

The prophet Isaiah asks some very penetrating questions that put everything in order:

Who has directed the Spirit of the Lord, or as His counselor taught Him? With whom did He take counsel, and who instructed Him? Who taught Him in the path of justice? Who taught Him knowledge, and showed Him the way of understanding?—Isaiah 40:12–14.

Gracious Father, we humbly fall on the knees of our hearts as we answer these questions. You alone are the ultimate source of wisdom, knowledge, and guidance. Forgive us when we use prayer to try to manipulate Your will. It is not for us to instruct You, make demands, or barter for blessings. We confess our total dependence on You not only for every breath we breathe, but every creative or ingenious thought we think. You are the Author of our vision and the instigator of our creativity.

So we begin this day with thanksgiving that You have chosen us to be leaders. All our talents, education, and experience have been entrusted to us by You. The need before us brings forth the expression of supernatural gifts You have given us. We thank You in advance for Your provision of exactly what we will need to serve You and our Nation this day. By the power of the Holy Spirit. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 2, 1995.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CONRAD R. BURNS, a Senator from the State of Montana, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Alaska [Mr. MURKOWSKI] is recognized to speak for up to 20 minutes.

PROGRAM

Mr. MURKOWSKI. Mr. President, the leader has asked me to communicate this news to the Senate this morning. I am told that there will be a period for the transaction of morning business until 12 noon.

Following morning business, the majority leader has stated that it will be his intention to begin consideration of S. 1372 regarding the Social Security earnings limit.

The Senate may also be asked to begin consideration of the legislative branch appropriations bill during today's session.

As usual, all Senators should anticipate rollcall votes throughout the day and possibly well into the night.

THE ARCTIC NATIONAL WILDLIFE REFUGE LEASE SALE

Mr. MURKOWSKI. Mr. President, there is, in the reconciliation bill passed, in both the Senate and the House, an item known as ANWR, the Arctic National Wildlife Refuge lease sale. There have been many views, versions, and interpretations of just what this is all about. I think it is appropriate that a Representative from Alaska, again, highlight the facts concerning this very important issue relative not only to the reconciliation package, where it is anticipated to result in a lease sale of about $2.6 billion, but its contribution to the national energy security interests of our country.

Mr. President, let me attempt to put the issue in an understandable perspective relative to the size of the area that we are concerning ourselves with and the actual footprint anticipated.

First of all, there is a bit of a misnomer associated with ANWR, the Arctic National Wildlife Reserve. I hope the Chair can see this chart. Perhaps I should put it up a little higher. This does a pretty good job of describing the area in question. ANWR itself covers, basically, this top area, which is the coastal plain, about 1½ million acres; there is this wilderness area in green here, about 8 million acres. It covers the Arctic National Refuge—this portion here, which is in an area that is in refuge. That is about 9 million acres. It covers this up in the Arctic coastal plain. This is 1.5 million acres. The point is that the Refuge is about the size of the State of South Carolina.

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

When we talk about allowing an oil lease sale, there are a lot of misconceptions relative to just what the footprint will be. As I have indicated, the wilderness area, the green area, is not in jeopardy. That has been put in a wilderness status by Congress permanently, and that was initiated back in 1980.

The area of the refuge, which is the color orange—roughly 9 million acres—was also set aside in a permanent refuge in 1980. This area in yellow, the small area at the top, consists of 1½ million acres. That is the 1002 area that was left out of the permanent designations in 1980 by Congress for Congress to address the appropriateness of allowing oil and gas leases in the area.

So what we have here is, out of the 19 million acres, an area of 1½ million acres where the Congress is now making a determination on whether or not a lease sale should take place. This little area up here, as you see in the red or maroon color, is Kaktovik. That is an Eskimo village. The proposal is to lease 300,000 acres out of the 19 million acres of ANWR. In reality, it is 300,000 acres out of the coastal plain, a very small area. People have indicated that the Canadian border is right in here—that this area has virtually never had a footprint in ANWR. Obviously, that is incorrect. There is an Eskimo village. There is a radar site at Barter Island. Two abandoned radar sites are along the coast. So there has been a footprint, but it has been very negligible.

Geologists tell us that this is the most likely place in North America where a major oil discovery might take place. We really do not know whether the oil is there, and you do not know where to look for it; and when you look for it, you usually do not find it. When you look for it in Alaska and find it, you better find enough because of the cost of developing and transporting the oil.

It is rather curious to note that on this chart we have the area to the west, Prudhoe Bay. Prudhoe Bay, as most Members know, has been supplying this Nation with 25 percent of its total crude oil production for the last 18 years. The significance of Prudhoe Bay is that, while it has continued to flow at a rate much higher than predicted, and the recovery is much higher today, that field is in decline.

Production has been as high as 2 million barrels a day. Today it is down to 1.5 million barrels a day. As a consequence, we are importing more oil from overseas sources.

To give you an idea, Mr. President, and many Members really do not reflect on this, but in 1973 we had an oil embargo in this country—the Arab oil embargo—and the significant thing at that time, we were 36 percent dependent on imported oil—36 percent.

Today, our Nation is just a little over 50 percent dependent on imported oil. For those of you who have perhaps forgotten, in 1990 we had a war in the Persian Gulf. That was a war over oil. It was also an environmental catastrophe in Kuwait. You recall the burning of the oilfields.

Now, earlier this year, our Department of Commerce put out a report that said the national energy security interests of the United States were as risk as a consequence of our increased dependence on imported oil. Several years ago there was a great deal of discussion in the Nation relative to the increased dependence on imported oil, and there were those who suggested we would have to take steps—positive steps—to decrease our dependence on imported oil if we ever approach 40 or 45 percent dependence on imports. Here we are today at 50 percent.

We hear a lot about our trade deficit. We are buying more overseas than other nations are buying from the United States. It is interesting to look at the makeup of that. Roughly half is our trade deficit with Japan. Mr. President, the other half is the cost of imported oil.

Now, about 25 to 30 years ago when they were contemplating whether to open Prudhoe Bay, they made the initial discovery. They had a question of how to transport the oil to market. Some may recall the *Manhattan*, a U.S. tanker that had been reinforced to move through the ice through the fabled Northwest Passage, taking the oil from Prudhoe Bay, AK, over the top of the world, but they found the ice conditions were such it was an impractical alternative and proceeded to initiate the Trans-Alaska Pipeline—an 800-mile pipeline from Prudhoe Bay to Valdez.

It proved to be one of the engineering wonders of the world. It withstood bombs. It withstood dynamite. It withstood rifle shots. It withstood earthquakes. There was a bad accident in Valdez with the *Exxon Valdez* when it went aground, but certainly it had nothing to do with the integrity of the pipeline.

What we have here is a situation where the arguments used against this were very vocal—national preservation, environmental groups said this would be a hot pipeline. The oil comes out of the ground hot. You were putting the pipeline in permafrost, permanently frozen ground; therefore, you will melt the ground from the heat of the pipeline; that will cause the pipeline to break.

What about the animals, the caribou, the moose? Are they going to cross the pipeline? You will have an 800-mile fence across Alaska. Clearly, that was not the case. The pipeline did not thaw the ground.

As a matter of fact, many of the moose and caribou feed upon the pipeline because there is more vegetation. As the Acting President pro tempore from Montana is very much aware, any heat in an area where you have vegetation causes the grass to grow. We have the animals browsing in the spring on top of the buried pipeline because the grass grows more profusely in those areas.

The point is, the same arguments used against opening up the ANWR, or arctic oil reserve, are the same arguments used 25 years ago. They were predicting doom. You could not do it safely.

What about the people of the area? We have the Inupiat Eskimos in Point Barrow, Wainwright. The Eskimos were concerned because there was a question about their dependence on subsistence. What would happen to the caribou? Here is a picture, Mr. President, an actual picture of a very small portion of the central Arctic herd. Can you see the caribou? There are lots of them. They are all real. There are males and females. You see the pipeline in the background, and you see an oil rig under drilling. Once this area is drilled, this rig will be removed. Clearly, you see they are compatible.

Now, the Eskimos were fearful this development would harm the caribou and their dependence on subsistence. They are, today, advocates of opening up the Arctic oil reserve because they have seen for themselves, they have satisfied themselves that this activity has provided them with another alternative to subsistence. That is, jobs. They have jobs in huge areas of northern Alaska where jobs did not exist any before. They have a choice of jobs or subsistence.

Today, Point Barrow—at the top of the world, you can cannot go any further north—without a doubt, has the finest schools in the United States, without exception. They have indoor recess areas. They have been able to do this because they have the taxing capability, they have a revenue stream from the oil activities. They have jobs.

There is a concern being expressed by a group of our Native people in Alaska called the Gwich'ins, and this chart shows what this issue is all about, involving another caribou herd. The caribou herd that moves in this general area of the Porcupine River is called the Porcupine caribou, named for the Porcupine River that flows in and out of Canada and affects the villages of Arctic Village and Venetie.

The particular native people in this area are not the Eskimos of the North Slope but are very dependent on the Porcupine caribou herd for their livelihood and subsistence. This is the line that separates Canada from the United States up at the top of the world. This caribou herd is about 165,000.

As far as caribou are concerned, in Alaska we have 34 herds. We have about 990,000 caribou in the 34 herds. Two-thirds of the herds are increasing in numbers and 15 percent are in decline, and the rest are relatively stable. The herds fluctuate.

As the Senator from Montana well understands, they can overgraze their particular area and their numbers decline. There can be a concentration of predators in an area and numbers decline. There can be hard winters and the numbers decline.

This particular herd is the Porcupine caribou herd—about 152,000 animals.

The people that are dependent on this herd are the Gwich'ins, and they are in Canada and Alaska. Three quarters of them are in Canada and the rest are in the villages of Venetie and Fort Yukon. They are fearful they will lose this subsistence dependence as a consequence of activity associated with the lease-sale development and hopefully discovery.

I point out, Mr. President, a footprint is pretty small. The proposed lease sale in the Arctic oil reserve—this is a term I use—because it differentiates from the 19 million acres of ANWR, the actual area under consideration, the 300,000-acre lease sale out of the 1.5 million is pretty small in comparison to the entire area.

But the facts are, these caribou migrate in from Canada, come up into this area, and many of them calve. They calve where they calve; not in one spot, necessarily. It depends on the winter. Sometimes very few of them calve in America. They calve in Canada. But they come out here by preference, if they can, because they come to the coastal areas where the wind blows and there are fewer flies and mosquitoes and it is just a lot more pleasant.

As a consequence, the question is, can we have development compatible with migration?

If the Prudhoe Bay case is any evidence, we think we can. But what we are anxious to do is work with the Gwich'ins on both the Canadian and Alaskan side to form an international caribou management system to ensure that these animals are not disturbed.

The theory behind that would be that development, in the sense of exploration, drilling and so forth—which occurs in the wintertime, I might add—would not take place during the calving time, which is 3 to 4 weeks during the early summertime. So we can address that adequately. But that is one of the major issues that is used to suggest that the Porcupine caribou herd is at risk by this development.

Interestingly enough, these dots on the Canadian side represent sites of actual drilling for oil that took place in the 1970's. It is interesting to note also that there is a highway here, the Dempster Highway in Canada. It goes from near Dawson up to Fort McPherson. These caribou in their migration cross that highway. The Canadian Government did not see fit to do an environmental impact statement when they built that highway on the effect it would have on the caribou. The reality is it had very little if any effect, just as any activity in the coastal plain will have very little if any effect. We can take steps to ensure that it does not have an effect.

The argument that the Porcupine caribou herd is in jeopardy because of this activity is a bogus argument. It is a bogus argument fostered by some of the national preservation, environmental groups, that look upon this issue as a cause celebre. It generates membership, it is idealistic, it generates dollars. The American people cannot see for themselves just what kind of a footprint there would be. The American people cannot communicate, if you will, with the Eskimo people, as to what the advantages have been for them with the associated development and employment in their area.

I might add, for those who are not familiar with this area, because of the permafrost in these areas it is almost impossible to have underground utilities. So the tradition in these villages is no running water. The water is hauled in. There are no sewage facilities. You have what you call honey buckets. The honey bucket man comes around two or three times a week and you dump your honey bucket in the honey bucket wagon. A lot of people do not know that in many parts of rural Alaska that is the standard way of life.

As a consequence of having a tax base, these villages are getting running water, they are getting sewage capability, things that we take for granted and have never questioned. But if you do not step in another man's shoes and appreciate how he lives, you will never know what it is like—not to have running water and sewage.

Mr. President, I ask unanimous consent for another 10 minutes.

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

Mr. MURKOWSKI. Mr. President, as a consequence, the merits of this, what this means to the people of the area, are significant. The people in the area, the Eskimo people, are speaking for themselves and they are speaking against the interests as enunciated by the Gwich'ins, who are very much opposed to this.

I visited one of the Gwich'in villages, Arctic Village. I was up there in August. I was also in Venetie. I went into the meeting hall in Arctic Village and was cordially hosted. They had a big poster, a Hollywood poster of the buffalo. The sign under the poster said, ''Don't let happen to the Porcupine caribou herd what happened to the buffalo.'' Mr. President, they were out to shoot the buffalo and that is what they did. This activity has nothing to do with going out and shooting the Porcupine caribou. The caribou are very adaptable, unless you run them down with a snow machine or begin shooting them and so forth. So, as a consequence, there is absolutely no suggestion that this herd is going to be affected by this activity.

The Eskimos have invited the Gwich'ins to come up to Barrow, at their expense, to see for themselves what the alternative advantages are for jobs, tax base, and so forth. Unfortunately, there are tremendous pressures by the environmental groups that are funding, through the Gwich'in Steering Committee, ads in the New York Times and other efforts in opposition to this. We have also seen, unfortunately, the Secretary of the Interior, who is very much opposed to this development, side with the Gwich'ins.

The Gwich'ins are a relatively small population in Alaska, somewhere in the area of 400 to 500 people at most. Most of the Gwich'ins live in Canada. Of course, Canada is a competitor of the United States, a competitor to Alaska in the sense that Canada supplies a lot of energy to the world, a lot of energy to the United States. So the official position of the Canadian Government is very much opposed to the development of energy in Alaska because they see us as a competitor against their market which provides energy into the United States—gas, oil from Alberta, and so forth. As far as the Porcupine caribou herd and the dependence on that, about 300 to 400 animals are taken each year by the Alaskan Gwich'in people, about 4,000 by the Canadian Gwich'in people.

So, this is the environmental issue: Whether or not this area can be opened safely without harming the Porcupine caribou herd and the Gwich'in people.

To suggest that American technology and ingenuity cannot open up this area and do it safely is really selling short America. This pipeline was one of the construction wonders of the world. Prudhoe Bay is the best oilfield in the world. You may not like oilfields, but it is the best. The environmental oversight, permitting requirements are higher than anywhere else in the world. It is suggested by industry that they can have a very small footprint in this coastal plain, if allowed to initiate drilling. People have said, ''Senator, you are from Alaska. Obviously you have a position on this issue. How do you know that? How do you know that footprint is going to be small?''

About 8 years ago we came out and found another field adjacent to Prudhoe Bay called Endicott. That came on production as the 10th largest producing field in the United States, at about 110,000 barrels a day. Today it is the seventh largest at nearly 130,000 a day. They put a little island offshore here. And the footprint is 56 acres—56 acres.

Mr. President, this area is 19 million acres, as I said. The coastal plain up here is 1.5 million acres. We are talking about a 300,000-acre lease sale. Industry tells us now that their footprint, if the oil is there, can be as little as 2,000 acres. Four or five years ago industry said our footprint might be 12,500 acres. Do you know what 12,500 acres is? It is like the Dulles International Airport complex if the rest of the State of Virginia were a wilderness.

Remember, this area we are talking about is as big as the State of South Carolina. So to suggest that this footprint is going to jeopardize the coastal plain, is going to jeopardize the porcupine caribou herd, is absolutely a fabrication of reality.

This is an important issue for the Nation just as Prudhoe Bay was because Prudhoe Bay has been contributing 25 percent of the total crude oil produced

in the United States for the last 18 years. It is in decline. What do we replace it with? More imported oil? Export more jobs? And $57 billion dollars is the cost of imported oil. We have an opportunity, and the opportunity is now because this issue is in the reconciliation package.

There has been tremendous pressure on the White House on this issue. But not once has the White House addressed the national security interests. What has happened in the Mideast, Mr. President? What has happened with Libya, our friend Qadhafi? We all know Saddam Hussein, Iraq, and what is going on in Iran today, and the threat against Israel's national security. The Mideast is going to have a crisis. It is just a matter of time. We have heard from a number of statesmen. Larry Eagleburger, former Secretary of State, Schlesinger—many, many others saying do not put your eggs in one basket. That Middle East situation is going to explode, and our increased dependence on that market is going to result in the United States being held hostage because of our increased dependency on imported oil.

Mr. President, this would be the largest single job producer in North America. It would not cost the Federal Government 1 cent. There is no subsidy. There is no appropriation. The private sector will bid this in at an estimated bidding price to the Federal Government, the State of Alaska, at $2.6 billion.

In addition, there is approximately $80 million or more that is anticipated as a revenue stream to be contributed to refuge maintenance in our national parks and refuges. And as a consequence of the increased need for these facilities, I would like to do see more funding put in for our parks and other areas.

I appreciate the extension of time. Let me just make a couple of more points because I do not see other Members who wish to speak at this time.

There is some suggestion that this is going to have an effect on the polar bear. Anyone in Alaska can tell you the polar bear do not den in ANWR. They do not on land. They den at sea on the Arctic ice. You talk about the polar bear. We do not allow the polar bear to be hunted by Caucasians. You cannot take a polar bear in Alaska unless you are a Native. You can only take it for subsistence. You cannot take a hunter out for hire. In Canada, you can take a $10,000 bill, and you can go out and shoot a polar bear; anybody.

So we are taking care of our polar bear. We are taking care of our renewable resources.

So the environmental community is selling America short on our technology. And I would look forward to an extended debate on the factual realities associated with this issue because what we have seen is rhetoric, rhetoric, rhetoric, rhetoric, rhetoric; no factual information of any kind.

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

Mr. MURKOWSKI. I would be happy to yield for a question without losing my right to the floor.

Mr. WELLSTONE. I thank my colleague from Alaska.

I wanted to ask the Senator. In the committee I had an amendment which said that if we go forward with oil drilling in the Arctic Refuge there ought to be at least an environmental impact statement that is filed. Can the Senator explain why he disagrees with that? I know in fact we have not had one since 1987. Much has changed since then, and the Secretary stated that an environmental impact statement will be necessary for each new lease sale. This is certainly a new lease sale. Even if you are for drilling in ANWR, I think there is a big argument against it. It is not rhetoric. Why will the Senator at least not be willing to go forward with environmental impact statement?

Mr. MURKOWSKI. As the Senator from Minnesota knows, there are different views. The Senator is coming from the point of view of an obstructionist. We had an environmental impact statement prepared for the first lease sale. The application of updating that is certainly appropriate. But to suggest we have to go back and start the process over means you are simply putting it off, and as a consequence we will simply import more oil from overseas.

So this is just another obstructionist proposal because we have already had an adequate EIS. If you are going to bury this thing, then you have to take the responsibility for it.

The Senator from Alaska simply is fed up with these arguments that have no foundation. They are simply obstructionist views, and as a consequence it is not relevant.

Mr. WELLSTONE. Will the Senator yield?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. MURKOWSKI. I thank the Chair, and wish the President a good day.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, time is set aside for Mr. HATCH to speak for up to 15 minutes.

Mr. WELLSTONE. I wonder whether the Senator from Utah would be willing to give me 2 minutes.

Mr. HATCH. I need the full 15 minutes.

I will be happy to yield 1 minute. I yield a minute to the Senator from Minnesota

Mr. WELLSTONE. I thank my colleague.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. I say to my colleague from Alaska that I would have been pleased to go on with this debate. I think the national environmental law requires an environmental impact statement. It is not obstructionism to say so. I think for the vast majority of the people in the country, First, they do not believe on environmental grounds, or on energy grounds, that we need to do oil drilling which could threaten the pristine wilderness area, a real treasure for this Nation; and, Second, I think people believe, if you are going to go forward with it, you at least ought to be willing to file an environmental impact statement so we can know what in the world it is going to do. We had the *Exxon Valdez* oil spill. A lot has happened since 1987. That is not, I say to my colleague, obstructionism for me to come to the floor and to make that clear.

I thank the Senator from Utah.

Mr. MURKOWSKI. Mr. President, the environmental impact statement was completed in 1987, and it took 5 years to complete. There were full public hearings and extensive studies. The record speaks for itself.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. This would have been an interesting debate for me too. I have to say that with the debate around here this has been studied, and it has been unbelievable. We had all the same bizarre and extreme claims with regard to the caribou up there, and now we have more caribou and more wildlife than ever before. Alaska is just such a vast place. Maybe it is time we started thinking about the country, and about how we can stay independent and have national security.

Mr. WELLSTONE. I think my colleague should give me a minute to respond.

Mr. HATCH. I would like to finish my other statement. I would like to shift. I just had to make that comment because I hear this all the time, and I get kind of tired of it.

DRUG SENTENCING

Mr. HATCH. Mr. President, in the past month there has been much discussion about penalties for crack cocaine and about whether we should lower them. Of course, on Tuesday, President Clinton signed legislation preventing reduced sentences for crack cocaine from taking effect. That was the responsible course of action to take, and he should be commended for taking it.

So I was disturbed to read, in Saturday's New York Times that:

> * * * in Miami, some Federal prosecutors say they have chosen not to charge some crack suspects because they believe the punishment they will face is unduly harsh. [NY Times, October 28, 1995]

I am sure most Senators will agree that those who violate the law must be vigorously prosecuted. Congress enacts the laws and penalties, and the Justice Department enforces them. I have written to the Attorney General asking whether there is any evidence that crack prosecutions—or any other type of prosecutions—are being foregone because Federal prosecutors feel the penalties are too harsh.

The Times's unattributed statement is also troubling in light of the fact

that Federal drug prosecutions have slipped more than 12 percent since 1992—from 25,033 in 1992 to 21,905 in 1995.

I want to take a couple of minutes to reinforce the reasons why this body voted unanimously to block reductions in crack sentences, especially since the Washington Post has been attacking President Clinton for signing the legislation [President Clinton and Crack, November 2, 1995].

Some basics: penalties for crack are currently two to six times higher than for a comparable quantity of powder cocaine—not 100 times longer as some have imagined.

Crack use is associated with the explosion in the most horrifying cases of child abuse in recent years. And while drug addiction has long been a path to prostitution, crack has created what on the street is called the ''freak house'' phenomenon, where female crack addicts gather to trade sex for their next $5 piece of crack.

Crack dealers are notorious for their remorseless killings.

Crack is a much more powerful psychoactive agent than powder cocaine.

According to the U.S. Sentencing Commission, the typical dealer is caught selling 109 grams of crack—the equivalent of 3,000 rocks.

The Sentencing Commission tells us that crack defendants are more likely to have carried a weapon than other traffickers, and are more likely to have had an extensive criminal record at the time of arrest.

No one, to my knowledge, disputes these basic facts. No one claims that those who are convicted are innocent.

It is true that some low-level crack dealers are being arrested. Yet, very few Federal crack defendants are low-level, youthful, and nonviolent. According to the U.S. Sentencing Commission, of the 3,430 crack defendants convicted in 1994, there were just 51 youthful, small-time crack offenders with no prior criminal history and no weapons involvement.

In other words, despite all the rhetoric, just 1 crack defendant out of 67 qualifies as youthful, nonviolent, and low-level. Incidentally, under the so-called safety valve provision of last year's Crime Act, cases similar to the 51 are now eligible for specially lenient sentences.

We have a situation where, unfortunately, opponents of the sentencing regime are dismissing the facts. That is regrettable, especially so since the victims of the crack trade are so overwhelmingly concentrated among the minority residents of our inner cities.

For a blunt assessment of crack's effects in the inner city, listen to T. Willard Fair, president and CEO of the Urban League of Greater Miami:

> [Crack dealers] sell death to my community. They undermine the peace and harmony of my community by virtue of what they choose to do.

Crack is not the only problem we are facing, of course. Today, a major national survey is being released by PRIDE—a parents' group headquartered in Atlanta. PRIDE has found dramatic increases in drug use among kids. Cocaine is up. Hallucinogens are up.

Marijuana use is up 111 percent in grades 6–8. It is up 67 percent in grades 9–12. One in three high school seniors now smokes marijuana. This confirms reporting from other sources that in 1994, the number of high-school kids smoking pot hit 2.9 million—nearly 1.3 million more than in 1992.

This chart shows the fruits of our newly permissive attitude toward drugs. Among 9–12th graders, marijuana use is up for the 3d straight year, from 16.4 percent of students back in the 1991–92 school year to 28.2 percent of students.

Like many of my colleagues, I am also concerned at the Clinton administration's misguided policy of focusing on hard-core drug addicts—people who are very difficult to rehabilitate.

I am not saying we should not, but our limited funds ought to be going to these first-time youthful offenders that we have a chance of rehabilitating, not for people who we have virtually no chance of rehabilitating.

One key indicator of the success or failure of such a policy is the number of emergency room admissions, because many emergency room cases involve addicts and burned-out users. There is a survey instrument that studies such cases, and many Members of Congress will have heard of it—the Drug Abuse Warning Network, better known as DAWN.

Members may be surprised to learn that the numbers for DAWN have been unaccountably late this year. That is right: The numbers for the first half of 1994, which should have been released months ago, are now sixteen months old.

In past years, these numbers have always been released in April. The 1993 numbers were released on April 11, 1994. The 1992 numbers were released on April 23, 1993. The 1991 numbers were released on December 18 of the same year—less than 5 months after the survey data had been collected.

It is my understanding that the administration had planned to finally release this data on Friday. It is further my understanding that the data will show a large upswing in the use of cocaine and methamphetamine.

Unfortunately, the American people will have to wait a few more days for this information. You see, the administration has postponed the release of this data until next Tuesday, which just so happens to be the day elections are being held in Virginia, New Jersey, Kentucky, Louisiana, and Mississippi. In other words, to get past the election, or at least that is what it appears to be.

Voters in these states will not learn of this evidence of failed leadership until after election day. What does this tell the American people about the Clinton Administration's drug policy?

And why do we have to wait 16 months for this information when we know from past experience that we can get it in less than 5? It is intolerable that the Congress has to wait over a year for vital information on the present state of our drug problem.

The administration is aware of the seriousness of this problem. According to the Attorney General:

> The latest surveys confirm that despite some recent gains, drug use in the United States is clearly on the upswing once again. The social consequences—of drug use—cannot be reduced of affected by enforcement efforts until our society changes its more tolerant attitude toward drugs. . . .

Mr. President, the Attorney General called it exactly right. We are not going to get anywhere on this problem until we start to change attitudes again. The job of changing attitudes belongs to all of us in positions of national leadership. It also belongs to the President.

I have previously indicated that I think President Clinton is AWOL—absent without leadership—in the war on drugs. Senator DOLE and Senator GRASSLEY have already been vocal on this issue, on the need to bring national attention to bear on just how bad the situation has become. We need to revitalize the drug war. In coming months, I will be calling on a number of my colleagues to join in this effort.

I am concerned. By working together, I believe we can reclaim this lost ground. Just look at this chart, ''Rate of Youthful Marijuana Use.'' And we all know that once they start using marijuana, many of them will start trying harder drugs like cocaine, ultimately heroin, and so on. In grades 9 through 12, the PRIDE survey shows that we had a low here at 16.4 percent in 1991 and 1992, and from that day on it has gone up to where it is 28.2 percent.

Keep in mind, almost all these kids, a high percentage of these kids are going to try harder drugs because they think it is a fun thing to do after trying marijuana. Marijuana use is up, and it means the other harder drug usage will be up as well.

I wonder what this particular DAWN survey will say, but we will not have the privilege of knowing it until after the election this year.

We have a number of very important elections coming on that Tuesday.

No matter which way you look at it, you have to be alarmed by this problem of more and more kids grades 9 to 12 using marijuana every year since 1992.

Frankly, there is not much leadership in trying to stop them from doing so. Mr. President, I am concerned about these problems. I hope the administration is concerned. It is about time that they get concerned about these problems. We have to do what is right here. We have to do what is right, and do what is in the best interests of our kids and of our grandchildren and the future of our country. We have to start getting very, very tough on drug use in this country.

And for us and this administration to take the limited funds that are available, and use them for hard-core drug addicts, instead of these kids that need the help now that have a chance of being rehabilitated, I think, is basically immoral. If we have enough money left over, sure, I am willing to throw it down the drain by trying to help the hard-core drug addicts as well. And occasionally you will get one that will do a little bit better in treatment, but it is almost none who come through that process who are hard-core drug addicts. It is very, very uphill.

Frankly, with the limited funds we have, we ought to be using them to help those kids who need it and are likely to quit using drugs after the rehabilitation period starts.

Mr. President, I hope that the President and others will do more about this issue. We have all got to do more about this issue, and I am going to continue to speak out until I see some changes in this administration and some changes in our government as a whole. I hope that we will all cooperate in trying do this because this is not a Republican/Democrat thing and not a pro-administration, anti-administration thing.

These are facts that have to be brought out. Hopefully the administration just does not understand, and once they do, will start doing more about it. And hopefully the President will use his bully pulpit to start fighting these things that are destroying America, financing crime and murders throughout this society, and killing our kids and their futures well into the future.

I thank the Chair, and I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Kentucky is recognized for 10 minutes under the previous order.

(The remarks of Mr. MCCONNELL pertaining to the introduction of S. 1378 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized for up to 20 minutes.

Mr. BINGAMAN. Thank you, Mr. President.

THE IMPORTANCE OF FEDERAL INVESTMENTS IN RESEARCH AND DEVELOPMENT

Mr. BINGAMAN. Mr. President, I rise this morning to call the Senate's attention to a report that was released yesterday by the Council of Economic Advisors. The report is entitled, ''Supporting Research and Development to Promote Economic Growth: The Federal Government's Role.''

This report eloquently makes the case for the enormous positive impact which Federal investments and research and development have in promoting economic growth and providing greater opportunities for our children and for future generations. Most of the debate we have had, Mr. President, about this budget this year has focused on whether particular cuts or reductions or particular tax increases have been fair to one group or another in our country. For example, are the Medicaid cuts too deep? Are the Medicare cuts too deep? Should we be putting an additional financial burden on students in schools? Should Congress be scaling back the earned-income tax credit on low- and moderate-income families while cutting taxes for those who are better off?

But another important part of the debate, the budget debate, needs to be about the impact of what is proposed in this budget on the long-term economic growth of the country. And that is the issue that I would like to focus on here this morning.

The report that was released yesterday by the Council of Economic Advisors makes several crucial points that the congressional majority needs to understand as it embarks on what I see as a disastrous course of slashing Federal civilian research investments by the year 2002. Let me just read a couple sentences from the report.

It says:

> Increasing the productivity of the American workforce is the key to higher living standards and stronger economic growth in the future. Evidence indicates that investments in research and development have large payoffs in terms of growth. . . . Indeed, investments in—research and development—are estimated to account for half or more of the increase in output per person. Maintaining or increasing this country's research and development effort is essential if we are to increase the rate of productivity growth and improve American living standards.

The report finds that ''many studies have demonstrated that investments in research and development yield high returns to investors and even higher returns to society.'' The report points out that it is this difference between the returns capturable by a single firm or an individual and the returns to the society as a whole that leads the private sector to underinvest in research and creates the need for public investment in research and development.

Mr. President, this is a need that has been recognized throughout this Nation's history, going back to the first Treasury Secretary of this country, Alexander Hamilton. The report points to the $30,000 that was appropriated in 1842 to build a telegraph between Washington, DC, and Baltimore, to demonstrate the feasibility of Samuel Morse's new technology.

It points to the 1862 Morrill Act, and that is an act, of course, that has benefited each of our States—Government funding of agricultural research. It points to the enormous benefits that have flowed from the expansion of Federal research investments following World War II pursuant to the vision that Vannevar Bush described in his report ''Science: The Endless Frontier,'' which was submitted to President Truman in June 1945 at the end of the war.

Yet, there are some very disturbing charts in this report. The first of these charts I want to refer my colleagues to is a chart of nondefense research and development expenditures as a percentage of gross domestic product. What you can see here is that the United States has been lagging behind Japan and Germany in its nondefense research expenditures as a percentage of gross domestic product for more than two decades.

The yellow line is the United States. Japan is now substantially above both the United States and Germany in its investment in research and development, nondefense research and development, as a percentage of its gross domestic product.

This second chart indicates Federal investments, U.S. investments in nondefense research and development and shows very clearly that they have been declining substantially since the 1960's as a percentage of gross domestic product. You can see from the period 1961 to 1996, there was a short period there in the early sixties where there was a substantial increase during the heyday of the space program. It began to come down. It has continued its downward trend, as a general matter, until today, and it is scheduled in this proposed GOP budget for a substantial additional decline in the next several years. That Federal research investment, as this chart shows, will plummet during the next several years.

As the report that was issued yesterday points out, this is a greatly different plan of action from what governments in other parts of the world are doing, particularly Japan and Germany, who are our main rivals economically and technologically. Those countries around the world are seeking to follow the example of the United States, to emulate the successful American model of the last century, just at the same time that we, as a nation, seem bent on abandoning that model or wrecking it. The Council of Economic Advisers' report points out that the Japanese Government recently announced its plans to double its research and development spending by the year 2000.

We have a chart here that I think is a very important chart for people to focus on. This highlights the effect of our congressional budget plan and the effect of the Japanese plan. What you can see is that by the year 1997, Japan will overtake the United States in Government support for nondefense research and development, and that is not as a percentage of our gross domestic product, that is in absolute dollars. You can see that by 1997, the Japanese will be spending more than we will if we stay on the course that has been

laid out in this budget resolution. Obviously, this gets even worse in the years ahead, as you go to the year 2000.

The Council of Economic Advisers' report also points out that there is no basis in historical data to believe that cuts in Federal research and development spending will be compensated for through additional private sector investments. I think this is a very important point, Mr. President.

This next chart, which I really do commend to everybody because I think it has a very important message about how history works, it makes it very clear that there is a correlation between changes in Federal research and development expenditures and changes in private sector research and development expenditures 1 year later. The private sector follows the Federal Government lead in investing in research and development.

The report concludes the correlation means that if Federal research and development support is cut, the Nation is likely to lose future rewards not only from the federally supported research and development that will not be undertaken, but also from the industrial research and development that will not be undertaken as the private sector scales back in response to Federal cuts.

Stated very simply, when the Federal Government spends more on research and development, the private sector follows its lead. When the Federal Government spends less on research and development, the private sector follows its lead and spends less.

Mr. President, this is a horrible position for our country to place itself in as we approach the beginning of the 21st century. These cuts in Federal civilian research and development are not just theoretical numbers out there. These are cuts that are being made in many of the appropriations bills that we are passing on the floor of this Senate.

The energy and water appropriations bill, which we passed on Tuesday, cuts civilian energy research by 17 percent, $637 million. That was 17 percent from the President's request and it was cut 13 percent, or $462 million, from the last year's level of funding. Some research and development activity, such as solar and renewable energy research and development, were cut an even larger percentage, 35 percent, in that particular bill.

The same is true in the transportation appropriations bill that we passed on Tuesday. The conference report cut the Transportation Department's R&D budget request by 30 percent from the President's level of request and by 8 percent from last year's level.

In these two bills alone, civilian research and development is cut by almost $1 billion from the President's request, by over $500,000 from the fiscal year 1995 level.

Far deeper cuts are coming in the Commerce, State, Justice appropriations bill, in the VA-HUD appropriations bill and in the Labor-HHS appropriations bill.

This is not what we should be doing to our country as we approach the 21st century. If we do not change from this path, I believe that we will condemn future generations and our own children to a less prosperous and less productive America.

I urge my colleagues to read the Council of Economic Advisers' report and think about the consequences, the long-term consequences, of eating the seed corn of our future prosperity.

I urge my colleagues to think about the consequences of falling behind other industrialized nations in research and development and ultimately in productivity and standard of living. There is a clear and a constructive role for the Federal Government in investing in research. It has been carried out since the beginning of our Republic and, on a very large scale, it has been carried out since the Second World War. It has served our Nation well. It should not be lightly discarded as a collateral casualty of the effort to balance the budget.

IMPORTANCE OF SENATE RATIFICATION OF START II TREATY

Mr. BINGAMAN. Mr. President, I wish to speak for a few moments on another matter. This is a subject of profound importance that the Senate is not dealing with at the moment, and that is providing our advice and consent to ratification of the START II Treaty.

The START II Treaty is one that was negotiated and signed during the Bush administration.

It is so clearly in our national interest to proceed with that treaty that I have heard literally no dissent on that subject. Yet, it remains bottled up in the Foreign Relations Committee, apparently, as a hostage in a dispute over whether the chairman of the committee will get his way in the consolidation of our foreign affairs agencies.

In my view, this is profoundly wrong. Getting rid of several thousand nuclear weapons in Russia is so clearly in our national interest that it is, to me, tragic that the treaty is caught up in the sort of brinkmanship that has come to characterize the new congressional majority's approach to legislating. If it is not the daily public threat to refuse to raise the debt limit, it is the quiet threat we hear to torpedo the SALT II Treaty and the Chemical Weapons Convention.

Let me read into the RECORD some statements made by various people—most of who happen to be Republican—in favor of the START II Treaty.

President George Bush: ''The START II Treaty is clearly in the interest of the United States and represents a watershed in our efforts to stabilize the nuclear balance and further reduce strategic defensive arms.''

Senator HELMS, chairman of the Foreign Relations Committee:

I a m persuaded that the 3,000 to 3,500 nuclear weapons allowed Russia and the United States in this START treaty does not meet reasonable standards of safety.

He made that statement on February 3 of this year.

The Heritage Foundation, in the briefing book that they prepared for new Members of this Congress: ''The START II Treaty will serve U.S. interests and should be approved for ratification.''

The former Chairman of the Joint Chiefs of Staff, Gen. Colin Powell:

''With a U.S. force structure of about 3,500 nuclear weapons, we have the capability to deter any actor in the other capital no matter what he has at his disposal.''

The present Chairman of the Joint Chiefs of Staff, General Shalikashvili, said: ''I strongly urge prompt Senate advice and consent on the ratification of START II.''

Senator RICHARD LUGAR of this body said: ''If new unfriendly regimes come to power, we want those regimes to be legally obligated to observe START limits.''

Senator MCCAIN said: ''With the conclusion of the START II, the threat of nuclear war has been greatly reduced, and our relationship with the former Soviet Union established on a more secure basis.''

Mr. President, let me also read into the RECORD a statement made by the President's press secretary on October 20, in response to yet another postponement of the Senate Foreign Relations Committee business meeting on this issue. This is headlined, ''The White House Office of the Press Secretary.''

It says:

The President expressed concern today about the postponement of yesterday's Senate Foreign Relations Committee business meeting. He urged the Senate to completes its consideration of both the START II Treaty and the Chemical Weapons Convention and to provide its advice and consent to their ratification as soon as possible.

I ask unanimous consent that the full statement be printed in the RECORD.

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

THE WHITE HOUSE,
OFFICE OF THE PRESS SECRETARY,
Washington, DC, October 20, 1995.

STATEMENT BY THE PRESS SECRETARY

The President expressed concern today about the postponement of yesterday's Senate Foreign Relations Committee business meeting. He urged the Senate to complete its consideration of both the START II Treaty and the Chemical Weapons Convention and to provide its advice and consent to their ratification as soon as possible.

''START II and the CWC are of critical importance to U.S. national security,'' the President declared. ''They will help create a safer world for all Americans, and for our friends and allies. We need these two vital treaties now.''

START II will continue the process begun by START I of achieving deep reduction in Russian nuclear weapons. This will further diminish the nuclear threat and advance U.S. nonproliferation interests.

The Chemical Weapons Convention will ban an entire class of weapons of mass destruction. Its nonproliferation provisions

will make it harder and more costly for proliferators and terrorists alike to acquire chemical weapons.

Both START II and the CWC were negotiated and signed under the Bush Administration. Last month, the Senate adopted an amendment expressing the view that the Senate should promptly provide its advice and consent to their ratification. The President urges the Senate Foreign Relations Committee to allow the full Senate to carry out its Constitutional responsibilities and to support the ratification of START II and the CWC this fall.

Mr. BINGAMAN. Mr. President, as I said at the outset, it would be tragic if the Senate did not give its consent to the ratification of the START II Treaty before we adjourn in December or late November of this year. It will reflect very badly upon the leadership of this Senate. It will play into the hands of those in the Duma in Moscow, who want to torpedo the treaty.

It is incredible to me that we can find time to debate all manner of secondary foreign policy matters on this Senate floor, such as the Helms–Burton Cuba bill and Jerusalem Embassy bill. One newspaper headline referred to this as the ''Majority Leader's World Tour.'' But we do not seem to be able to find time for the START II Treaty. We have had plenty of days around here recently where we were marking time in morning business, and today is one of those days. We will likely have more of them in the weeks to come. We need to use at least one of those days—the sooner the better—to provide our consent to ratification of a treaty that is so clearly in our national interest. We need to stop the brinkmanship, at least when it comes to matters beyond our shores, on which there is bipartisan consensus.

Mr. President, I yield the floor.

CONGRATULATIONS TO PATRICK W. RICHARDSON

Mr. HEFLIN. Mr. President, Huntsville, AL, native Patrick William Richardson received the 1995 Arthritis Foundation's James Record Humanitarian Award at a reception and dinner before an audience of his friends and peers recently at the Von Braun Civic Center. The Alabama chapter of the Friends of the Arthritis Foundation seeks to honor a person actively concerned in promoting human welfare through philanthropic works and interest in social reform.

Pat Richardson attended law school at the University of Alabama and began his practice with the family law firm, where he was eventually joined by two of his sons. He has distinguished himself in the legal profession and in civic pursuits. He has received many honors as an attorney. He served as president of the Alabama State Bar. He conceived and spearheaded the establishment of the University of Alabama in Huntsville and the UAH Foundation, on which he continues to served as a trustee. He also had a key role in the formation of Randolph School and is still active as a lifetime trustee. With the enthusiastic backing of his wife, Mary, Pat has served in the leadership and has actively supported numerous civic campaigns and enterprises.

I ask unanimous consent that an editorial detailing the career and accomplishments of Pat Richardson appearing in the September 20 edition of the Huntsville Times be printed in the RECORD. I congratulate and commend Pat for receiving this prestigious award.

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

[From the Huntsville Times, Sept. 20, 1995]

ATTORNEY'S CIVIC WORK CITED

Huntsville attorney Patrick William Richardson was presented The James Record Humanitarian Award at an award dinner recently at the Von Braun Civic Center North Hall.

Richardson's civic contributions include conceiving and leading in the founding of the University of Alabama in Huntsville and the UAH Foundation. He played a key role in establishing Randolph School and is a lifetime trustee.

He has been given numerous civic awards and honors including the Certificate of Merit, the honorary Doctor of Laws degree and the President's Medal of the University of Alabama in Huntsville, the Distinguished Civic Service Award of the UAH Alumni Association, the John Sparkman Award of the Madison County of the UA Alumni Association, the Award of Merit of the Alabama State Bar and the Brotherhood Award of the National Conference of Christians and Jews.

He has served as regional and national trustee of the National Conference of Christians and Jews, director of the Alabama Motorists Association affiliate of the American Automobile Association, the Huntsville Industrial Expansion Committee, two local banks and a local mortgage company.

He is listed in Who's Who in America, Who's Who in American Law and Who's Who in the South and Southwest and was recognized in resolutions of the House of Representatives of the Alabama Legislature and the U.S. Congress.

TRIBUTE TO LAUGHLIN ASHE

Mr. HEFLIN. Mr. President, Sheffield, AL mayor Laughlin Ashe passed away recently. In the 3 short years that he served as mayor of his hometown, Ashe developed a reputation for integrity and honesty that is seldom enjoyed by officeholders. Many of those who worked with and for him say he deserves full credit for the economic revival of this city in northwest Alabama.

Laughlin Ashe looked after the best interests of his town to the very best of his abilities—abilities that were considerable. He was loyal to his friends and he was always true to his word. His was an effective style that yielded true leadership. He had a multitude of friends who will truly miss him. I am one of them.

After he was elected mayor in 1992, Ashe went about building consensus and bringing people together in order to rebuild the downtown area of Sheffield. His upbeat and forthright attitude spilled over into his work. He never allowed his serious illness to dampen his desire to serve and finish projects he had initiated and hoped to see completed. His dignity and spirit during his illness were reflections of the qualities that made him a successful mayor and wonderful human being.

He often remarked to close friends that being Sheffield mayor was the only job he ever really wanted. He was the coowner of Ashe-Box Insurance for several years, but sold his interest in the business after his election to the full-time mayor's job.

Laughlin Ashe was a friend to many, a consummate gentleman, and a compassionate father. He had an undying love for his city. Even before becoming mayor, he was Sheffield's self-appointed No. 1 cheerleader. He will be missed by all of us who had the pleasure of knowing him and watching him in action.

Last summer, Mayor Ashe met with editors of the TimesDaily newspaper for an interview to be published after his death. I ask unanimous consent that the account of that interview, from the September 16, 1995, TimesDaily be printed in the RECORD.

I extend my sincerest condolences to his wife, Debbie, and their family in the wake of this immeasurable loss.

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

[From TimesDaily, Sept. 16, 1995]

ASHE ON HOMETOWN: ''GOD I LOVE THIS PLACE''

(Laughlin Ashe was a forward-looking person—even when his own future was douded. This summer, Ashe met with TimesDaily editors for an exclusive interview, to be published after his death. For some two hours, Ashe spoke candidly about how far his city has come—and issued a challenge for others to keep up the progress after his own passing. Here is an account of that meeting)

(By Mike Goems)

SHEFFIELD.—Laughlin Ashe leaned back on the office sofa with his hands clasped behind his head and continued to talk about the past, present and future of his beloved Sheffield.

For more than an hour, he appeared completely content and relaxed. His own bleak future appeared lost in the discussion about business expansions, a sharply healthier city treasury and city revitalization efforts.

Without warning, his thoughts suddenly returned to the inevitable. He had known for weeks that he would not be there to see those plans through.

''The good Lord has been kinder to me than I've ever had a right to expect,'' Ashe said. ''He has given me an opportunity to do the one thing that I've always wanted to do. I've never been involved in anything as fulfilling as this job.

''The only regret I have is time. I just don't have the time anymore,'' Ashe continued as tears filled his eyes, his voice cracking. He could not finish his next sentence—''I wish I had more time, just 4½ more years to see. . .''

Ashe, a self-proclaimed cheerleader for a city rebounding from the doldrums of the mid-1980s, died Friday from liver cancer. He was 59.

Having been told by doctors that his life likely would end before autumn, perhaps his

favorite time of the year, Ashe agreed to be interviewed by the TimesDaily on June 27, provided the story would not be released until after his death.

His message on that hot, overcast day came in the form of a challenge to Sheffield residents to keep the city moving forward.

''This city has come so far in such a short period of time,'' Ashe said. ''There's no reason we cannot continue in this direction when I'm gone.

''There's a sense of pride that has returned to Sheffield. People are proud to say they're from Sheffield again. I know it means something special to me to tell people where I live. God, I love this place.''

That love and pride for his hometown is perhaps the biggest legacy Laughlin Ashe leaves. Ashe's enthusiasm is credited by many as one of the single biggest factors that made Sheffield a city on the move again.

To have heard him talk, you would, think the city is headed toward unprecedented growth.

''We have feelers out in every direction,'' Ashe said. ''We've on the verge of some extremely big things, and slowly but surely we're going to get there.''

Ashe downplayed his role in the revitalization of Sheffield, and he made repeated efforts not to point fingers at anyone from past administrations. Instead, he praised the City Council, which he said has done ''an unbelievable job,'' and the residents who ''feel as deeply about the city as I do.''

''When I was running for office, Sheffield had gotten into a rut,'' Ashe said. ''People were not negative but they certainly weren't positive, either. That kept us in that rut.''

Change came subtly but quickly, a product of a joint effort between the council and Ashe.

WE'RE BUSINESSLIKE

We were fortunate enough to have six brand new people with no political experience to come into office at one time,'' Ashe said. ''Not a single one of us knew that something couldn't be done. We didn't understand there was no way to get from one point to the other. So, we just did it.

''We don't have the pizazz that Florence does with their nearly $20 million budget, we don't have the little hint of scandal that may sometimes trouble Muscle Shoals where you have this faction hollering at another faction, and we don't have that little smoke like what's coming out of Tuscumbia. We've business-like. We discuss the issue and 20 minutes later we're out of there.''

Ashe saw his role as one of a cheerleader. While promptly dealing with the negatives, Ashe focused on the positive things in Sheffield. It's an attitude that proved to be contagious.

''During these past three years, we have uncovered a lot of those needs and started serving them.'' he said, ''When you get down to it, you provide the basic services and the rest is attitude.

''And hell, yes, our image has improved. I base that on what people say to me, my family and the council. The attitude has improved. The way to discover that is by driving through our neighborhoods like York Terrace, the Village and Rivermont and you'll see people building onto their houses and taking pride in their property.''

During the Ashe administration, the city has attacked the problem of rundown houses and property that has gone unattended by landowners. Several of those eyesores have been torn down, at a cost of about $10,000 per project.

That condemnation process is far from complete, according to Ashe. Singling out a property owner on Columbia Avenue, he said the face-lift ultimately will include the removal of some house trailers and other unsightly residences.

Ashe also talked at great length about the council's ability to update equipment for the street and cemetery departments, while improving resources for the police and fire departments. Sheffield's 101 city employees have been given another raise, marking the third straight year they have received pay increases.

''We got behind during the level times of the 1980s, and we're still not where we want to be,'' Ashe said, ''We have lost three or four top-notch police officers over the last month or so. We can't afford to keep them. We get them trained in the academy and then on the streets, and then they go to Muscle Shoals or Florence for a $5,000 raise. And I don't blame them.''

The purchases and raises are products of an improved economic and retail base. Ashe credited Sheffield businessmen Bob Love and Tony McDougal for initiating some of that growth before the 1992 election. The influx of restaurants in the city has revitalized downtown.

A REASON TO COME

''The thing Sheffield had been missing for so many years was a hook, a reason for people to come to the city,'' the mayor said. ''There had been no real reason to come into Sheffield unless you had a specific purpose. We don't have the upscale anything for shoppers. Restaurants are changing that. They're giving people a reason to come into our city.''

Ashe forecast that the crowning jewel of Sheffield's revitalization will be a promised overpass that will allow motorists to travel to Sheffield without fear of being delayed by passing trains at the Montgomery Avenue crossing. Despite the belief among some residents that the overpass will never be built, Ashe never wavered.

''I still go to bed at night and say my prayers and thank God this overpass is coming,'' he said. ''this overpass is going to do more to change Sheffield positively as Woodward Avenue did in Muscle Shoals.

''We're going to have a business route again, and we're going to have traffic flow through here that made this town back in the '50s and earlier years. Once the traffic flow starts, the retail and commercial portions will come. We have some people already beginning to think in those terms.''

Sheffield's long-range plan includes the development of an office park near the intersection of Nathan and Hatch boulevards, a project that will tie in with the Old Railroad Bridge walking-trail system. The city also is working on a softball-baseball complex.

As Ashe put it, ''We've got so many things in the cooker it's hard to keep up with.'' That's why he asked the council to hire an assistant to the mayor during his final months, so he could make that person aware of those projects. The council responded by hiring Linda Wright, who will now play a role in the transition to a new mayoral administration.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, more than 3 years ago I began daily reports to the Senate to make a matter of record the exact Federal debt as of close of business the previous day.

As of the close of business Wednesday, November 1, the Federal debt stood at exactly $4,981,703,482,414.58. On a per capita basis, every man, woman, and child in America owes $18,910.63 as his or her share of the Federal debt.

It is important to recall, Mr. President, that the Senate this year missed an opportunity to implement a balanced budget amendment to the U.S. Constitution. Regrettably, the Senate failed by one vote in that first attempt to bring the Federal debt under control.

There will be another opportunity in the months ahead to approve such a constitutional amendment.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, is there 30 minutes reserved for the minority leader or his designee?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

CLASS WARFARE

Mr. DORGAN. Mr. President, yesterday, I was on the floor of the Senate discussing the reconciliation bill and discussing some other issues, including trade issues, and I was confronted, once again, with the rejoinder that a discussion of the type that I was having was class warfare. I responded to that at the time. But I was thinking about this last night as I was reflecting on the discussion we had.

I thought to myself that it is interesting because every time you talk about the economic system in this country and who it rewards and who it does not reward, who it penalizes and who it does not penalize, somebody says you are talking about class warfare. What a bunch of claptrap, to call a discussion about economic strategy in this country and who benefits ''class warfare.

Here is what I said yesterday. I was relating it to the reconciliation bill, a bill that, not me, but a Republican strategist said largely takes from those who do not have and gives to those who do.

I was reading an article written by John Cassidy, which I thought was interesting. He talks about the economic circumstances in our country. He said that if you were to line up all Americans in a row, with the richest American far on the right and the poorest American far over here on the left—line all Americans up in one row—and then go to the middle American, the one right in the middle, the average, and that middle American standing in the middle of that line would be a working American, who earns, on average, $26,000 a year.

His article pointed out something I pointed out to the Senate previously, which I think relates to why people are sour in this country and why they are upset about where we are headed. He pointed out what that person making $26,000 a year, that working family there making $26,000 a year, has experienced in this country.

In September 1979, this person was earning $498 a week. In September of 1995, if you adjust for inflation, this worker had lost $100 a month in income. Let me state that again. This is a person working in this country—a country we always expect to have an economy that provides opportunity, growth, and advancement—a person who works for an income of $26,000, in 16 years, discovers he is $100 a month behind.

Why is that happening? Because our economic system in this country is one where we are saying to the American workers, ''We want you to compete on a different level.'' Other people in this world are willing to work for pennies an hour. People putting shoes together in Malaysia work for 14 cents an hour. They hire kids in India to make rugs. They hire cheap labor in Mexico to make products that used to be manufactured in this country by people who had good manufacturing jobs.

It is because those jobs increasingly have moved out of our country, because wages in this country have diminished, because we have decided to allow foreign competitors to access our marketplace with a product of cheap goods, which are the product of cheap labor, people earning 20 cents an hour making shoes in Sri Lanka, or shirts from China. The list goes on and on and on. Is that good for the consumer? Yes, because in the short run they can buy cheaper goods, presumably. In the long run, American jobs are gone.

That middle-income wage earner, who loses $100 a month in earnings in 16 years, discovers that this kind of global economics hurts middle-income wage earners.

The same article made a different point. The top 1 percent of the families in this country in 1977 were earning an average of $323,000 a year. In 1989, the year for the comparison of the top 1 percent, that was up 78 percent; they went from $323,000 a year in income to $576,000 a year in income.

So while the person right in the middle in this country has lost $100 a month, we have the upper 1 percent, whose incomes per person go up to half a million per year, with a nearly 70 percent to 80 percent increase in income.

My purpose was not to say that the people at the top are not worth it. I do not know whether someone making half a million is worth it. I do not know what they are doing. My purpose is not to say they do not deserve it. They may well deserve all of it.

My purpose is to say an economy that provides enormous rewards to the small group of people at the top but penalizes—because of its economic strategy—the middle-income families in the middle by saying to them, ''Work 16 years and you will be $100 less a month and you will be farther behind,'' something is wrong with that strategy.

That was the point I was making. I was equating that point to the strategy in the reconciliation bill that says to 50 percent of the American families—and guess which 50 percent—the bottom half will pay more as a result of this bill; and then says to the top 1 percent—guess what—it is time to smile. When you get your envelope, it will have good news because you get a significant tax break.

That is the point I am making—not class warfare, just the facts, the facts that describe why a lot of people are upset about which economic strategy. Why do we see a $26,000-a-year wage earner work hard for 16 years and lose ground?

Let me give examples. Here is a company that makes pants—slacks. On July 19, they filed a form down at the Department of Labor that says 280 of their workers now apply for trade adjustment assistance.

What does that mean? In plain English, they had 280 people working for them that are not working for them anymore because of foreign competition. That means this company moved their company to Mexico, fired the American workers, the American workers go on trade adjustment assistance. Then this company, after the taxpayers pay trade adjustment assistance for unemployed Americans who lost their job and takes its production to Mexico where it can hire cheap labor, makes the same product, and ships it back into this country.

The net result? More profits for this company, more profits for the pants maker, but 280 people out of work.

Are these slothful, indolent people who do not want to make their way in life? No, working families that had a job but cannot compete with people who make 70 cents an hour or $1 an hour and should not be expected to compete in those situations because it is not fair competition.

This company, by the way, that has 280 of its people receiving trade adjustment assistance says the following: ''They perform most of their sewing and finishing offshore to keep the production costs low.'' However, the finishing of garments sewn by third-party contractors is conducted either in one of its U.S. facilities or in the offshore facilities. The offshore plants pack the finished garments and ship them back to the United States for U.S. customers.

Here is what it says in the financial report. Certain of the companies that formed subsidiaries had undistributed retained earnings of $21 million on November 4, 1994. No U.S. tax has been provided on the undistributed earnings because management intends to indefinitely reinvest such earnings in the foreign operations. In other words, they made $21 million by moving the jobs outside of this country and pay zero tax.

What about their competitor? If their competitor across the street stays in this country and makes the same kind of pants and makes $21 million, they pay a $7 million tax to the U.S. Government. Said another way, this company gets a $7 million tax break for moving its jobs offshore.

Last week, I offered an amendment here in the U.S. Senate—very simple. No one could misunderstand it. It said at the very least we should stop penalizing the companies who stay in this country and keep the jobs in this country, get rid of the tax incentive that says if you close your plant in America and move it overseas, we give you a tax break.

Stop this perverse, insidious tax break for companies who decide they will close their American plant and move the jobs overseas, giving them an advantage over the people who stay here and produce here and work here in this country. My amendment failed on a party-line vote. It failed on a party-line vote. I say if we cannot close this loophole, we cannot close any loopholes. We will have a chance to vote on this again.

Let me give another example of why that $26,000 family is working harder and losing ground. This is from a Fruit of the Loom news story, October 31, 1995. That is the day before yesterday. Fruit of the Loom, the Nation's largest underwear maker said today it would close six U.S. plants and cut back operations at two others, laying off 3,200 workers, or 12 percent of its work force.

What you are seeing, said their spokesman, is the cumulative impact of NAFTA and GATT, our trade agreements.

This company will lay off 3,200 people. It does not mean much, just a statistic. A statistic is sterile, antiseptic, and does not mean anything to anybody.

One of the 3,200 is a person that has a name, went to school, had some hopes deep in their chest for themselves and their family and their future, who are called in some place and told, ''Guess what? We have some news for you. This job you had at our company does not exist anymore. We are moving that job to a foreign country where we can buy labor for 50 cents an hour, 14 cents an hour or $1 an hour. We think having to pay you $5, $7 or $10 an hour is way too much money. So we will access profit by obtaining foreign labor and doing overseas what we used to do here.''

This $26,000 worker or one of these 3,200 people that have lost their jobs might ask the question these days: If productivity is up—and it is—productivity is up in this country; the stock market is up—it is at record levels; corporate profits are up—at record levels; if America is doing so well, why is this middle-income family losing ground?

I spoke yesterday about part of the reason for that. It is a combined strategy that says in this country that we measure economic health by what we consume, not what we produce. There is no premium on production. If we have not learned anything by studying several hundred years of economic lessons, we certainly have not learned the

lesson of the British disease—slow economic decline. Once you decide that production does not matter, consumption is what counts.

You measure consumption every month forever and talk about how good things are going in this country and have your production facilities leave America, you weaken this country forever. You inevitably weaken America's ability when you weaken its productive sector.

Now, I talked about all of that yesterday in the context of needing a new trade strategy, especially a new trade strategy. We cannot compete with one hand tied behind our back and should not be expected to compete with people making 14 cents an hour or we do not want to compete with those kids who are paid 12 cents an hour working 12 hours a day. American workers should insist that competition be fair in international trade.

I also said yesterday that not only is our economic strategy and trade strategy desperately in need of reform so that it responds to the needs of those who stand in the middle of the line of the income earners in this country. At a time when those on the upper side of the line are doing handsomely, the people in the middle are losing ground. Not only do we need a new economic strategy to address those issues as we discuss issues like the reconciliation bill in Congress, we also need to understand what all the statistics mean.

When we decide that the philosophy we pursue is one that says let the bottom 50 percent pay more and let the top 1 percent be handsomely rewarded, it is not any wonder that people are sour about the priorities here.

The earned-income tax credit, as an example in the reconciliation bill, the earned-income tax credit changes are the result or are the reason why the bottom half will largely pay marginally more tax after this reconciliation bill is passed.

What is the earned-income tax credit? It is the earned-income tax credit that goes to people that work at the low end of the income scale that provides incentives for them to work, the very thing we have debated for months.

We want to get people off of welfare rolls and onto payrolls. We need to provide incentives for people to go to work. People who are working, often at the bottom of the scale, need those incentives.

This reconciliation bill says, by the way, these incentives are unimportant to us, so what we will do is limit the earned-income tax credit. And what is important to us? Building B–2 bombers nobody asked for, building a star wars program nobody wants, buying F–16 and F–15 airplanes nobody ordered, buying two amphibious ships for $2 billion that the Defense Department said it did not need, and spending $60 million, without a hearing, for blimps.

I am still asking, and I am asking again today, if there is anybody in this Chamber who knows who wrote in the $60 million in the defense bill to buy blimps, please raise your hand or come to me in the coming days so I can give proper credit where credit is due. Who in the Senate thinks we ought to buy blimps in the American defense bill? Somebody does. Somebody wrote it in. Nobody now will claim credit.

This is all about priorities. It is not about class warfare, not about one group of Americans versus another. It is all about trying to make sure the American wagon train moves ahead without leaving some wagons behind. It is about the priorities in this economic strategy, a strategy that actually encourages American corporations to move jobs out of this country, move them overseas, through this perverse tax incentive that rewards them when they do it. It's the economic strategy that says we do not care about those who stay here. We will not offer a minimum level of protection against unfair competition by 12-cent labor or 12-year-old laborers, or stuff produced by companies overseas that pump pollution into the air or water.

It is not a strategy that makes sense for this country's future. We must find ways, not only as we discuss this strategy on trade but also as we discuss the reconciliation bill, to merge our interests and make sure that all Americans move ahead. This country succeeds when we make sure that we provide opportunities for everyone. The private sector, the job base, the opportunities that exist must exist for all Americans, not just a select few Americans.

Most people I know want an opportunity to succeed and want an opportunity to do better. Most people are willing to get training and get education and go search for jobs. Regrettably, these days, fewer and fewer good jobs are available. The good manufacturing jobs, they are going to Mexico, going to Sri Lanka, going to Bangladesh, Malaysia, and Indonesia. Those are jobs that used to be in Phoenix, yes, some in Bismarck, El Paso, Denver, Chicago, and Pittsburgh.

This country needs to rethink its economic strategy. It needs to rethink the strategy in the reconciliation bill, which is wrong. It needs to rethink its economic strategy in trade policy and have a broader economic game plan to try to encourage, persuade and retain an aggressive, thriving production industry in our country.

Not our country, not any country, will long remain an economic power, a world-class economic power, if it exports its productive base.

I asked a recent Trade Ambassador, who shall remain unnamed—Carla Hills—is there any area at all, any area of productive capability, steel, autos, any area that you think that we must not do without, that would hurt our country if we lose? No answer. Apparently, there is nothing the loss of which would hurt our country.

I could not disagree more. No country will remain a strong economic power unless it has an auto industry that thrives, a steel industry, a transportation industry. The storm clouds are overhead. The small craft warnings are out already.

People who do not study these issues, including international trade and the broader economic strategy, and who wins and who loses, and people who do not study the consequences of the reconciliation bill, I think only add to the aggravation that a lot of American families feel about a system that says to them: Work harder and you will achieve less. Work 15 years and you will be $100 a month behind, if you happen to be in the middle of American wage earners.

We have a lot of debate ahead of us on the issue of reconciliation because the President, justifiably and predictably, will veto this bill. This is a terrible piece of legislation. There will be a veto and then this country, in the tradition of 200 years of democracy, must come together and reach a compromise.

Republicans and Democrats may disagree on some things, but the fact is, it is required for us to compromise. That is the way the system works. One side or another may not like it, may not want to, but we are required to do that.

This stuff about default, train wreck, shutdown, is fundamentally irresponsible. No one in this country expects any thinking or any thoughtful legislator to believe that any of those strategies would be in America's best interests.

It is my hope in the coming days and in the coming next several weeks that Republicans and Democrats together will think through the common elements of a plan that makes sense for this country. Can anybody, anybody ever believe it is in our interest to provide a tax break to move your plant overseas? Anybody? I understand we have had a couple of votes on it. Both times I have lost. But one of these times it must not be political. One of these times people need to look at that and say: Is there a reason to provide a tax break to say to somebody, ''Close your plant in America, move it overseas, kill those jobs in America, hire some foreign workers for pennies an hour, and we will give you a reward; in this case, we will give you $7 million; close it up—a $7 million benefit''?

We will not give that benefit to an American plant operator, some owner of an American business or some workers in an American business. We will not give that to them for staying there. We will just give it to somebody who decides to move the jobs out of our country.

I need to explain that vote to a number of constituents, honestly. We are going to vote on it again. That is just a small, baby step in the march of a better economic strategy that makes sense for this country in terms of the growth of the productive center, growth of good jobs and opportunity for all Americans.

Mr. President, I yield the floor.

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

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

The bill clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. THOMAS. Mr. President, I think in this continuing effort for the freshman and sophomore class to bring something of a unique view to this Senate, we have set aside, I believe, a half an hour.

The PRESIDING OFFICER. The Senator is correct. The Senator is recognized under the previous order to speak in morning business for up to 30 minutes.

Mr. THOMAS. I thank the Chair. I would like now to yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

RESTORING THE BONDS OF TRUST

Mr. FRIST. Mr. President, it is a real pleasure to be able to join my fellow freshmen and sophomores with a message that has been consistent. It is a message asking for the courage of the American people to come forward to accomplish the agenda that has been set out in a very clear fashion.

Politics, like medicine, must be based on trust. Without trust, people lose more than their faith in Government. They lose all hope, hope that life in the future will be better than in the past.

That is why in the 1994 campaign, Republicans pledged not just to change politics but to restore the bonds of trust between the people and their elected representatives, to make us all proud once again of the way free people govern themselves.

The ideal of freedom and opportunity, which is the spiritual strength of our Nation, is what motivated our Founding Fathers. That ideal is what motivates us today.

As the poet Archie MacLeish once remarked in a debate about national purpose, ''There are those who reply that the liberation of humanity, the freedom of man and mind, is nothing but a dream. They are right. It is. It is the American dream.''

Mr. President, we can no longer sacrifice the future, the future of our children, by clinging to the past. We must work to restore the American dream for our children and for our grandchildren, but that means keeping our promises.

Keeping our promise to balance the budget means a better life for all Americans. As interest rates fall and productivity rises, all Americans will enjoy a higher standard of living.

Keeping our promise to save and strengthen Medicare means that for the first time seniors will have a voice but also a choice, and the Medicare system will be preserved for that next generation.

Keeping our promise to cut taxes means that all Americans who have watched their tax burden grow from as little as 2 to 5 percent in 1950 to almost 50 percent today will finally get to keep more of what they earn.

Keeping our promise to end welfare as a way of life means that the cycle of poverty that has trapped a generation of families in welfare will at last be broken and parents will be able to regain their pride and their dignity through work and personal responsibility.

It is a time to change. It is a time to call upon the courage of legislators, of representatives, and of the American people to recognize and carry out this change.

The decisions we make today will determine our future. Let us go forward with hope, confident that the future we leave to our children and to their children will be brighter than our past.

That is the legacy of our parents and that their parents left to them. It is the legacy all Americans inherited from our Founding Fathers, the legacy of the American dream. Let us not be the first generation who fails to pass it on.

Mr. President, I thank the Chair, and I yield floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I yield myself such time as I usefully use.

Mr. President, I congratulate my friend from Tennessee, who has certainly been a leader in the Medicare-Medicaid propositions that have come forward. He has been a leader partially because of his experience as a physician, but also having a very strong commitment to move forward in the changes that need to be made in order to strengthen and preserve these programs so that they will be useful. So I congratulate my friend.

LET US TALK ABOUT THE FACTS

Mr. THOMAS. Mr. President, we have been talking now for some time and will continue to talk, certainly through this month. I hope much of the bill will be completed within the next month so it will come to a closure that will be useful to the American people. I am confident that it will.

In the meantime, I think it is important that we continue to talk about what it is we are seeking to do, that we continue to foster an understanding in the country of what the issues are that we are talking about. I have expressed before and again say that I am very concerned that in this democracy, in this country, this Government of the people and by the people and for the people, that we need to have facts upon which each of us can make the decisions that we need to make as citizens and as voters and as leaders in our communities there.

There are differences of view. That is legitimate. There will continue to be differences of view. There are extreme differences of view among some of the Members in this place. But the decisions that are made, regardless of that point of view, have to be made on facts.

We all have a right to our own opinion, but we do not have a right to our own facts. I am concerned about it. I am concerned about it. When I go home to Wyoming, people talk about what they perceive, what they have heard in the media, what they have heard from opinion analysts and things of that kind that are not necessarily so. So I hope that for the most part we can talk about the facts.

I received a letter, as a matter of fact, from a lady in Afton, WY, whom I know, who has been very involved in public issues and has been active as a silver-haired legislator. She expressed her concern about some of the decisions that are being made and are being proposed. But I thought the interesting part was that she expressed her particular concern about the future and about her grandchildren and the things that would affect them. She talked about the fact that things are not going well, in her judgment, in the country. And, indeed, they are not where we would like them to be.

I thought it was interesting that she resisted the idea of change. Basically that is what we are talking about here a lot. People will stand up, one after another, decry the situation we are in, talk about the future, talk about kids, talk about taxes, and then resist change, as if things were going to change by continuing to do what we have been doing. It seems to me that is a fairly simple concept. We have not balanced the budget for 26 years. We have got to do something different if we believe, as I do, that we need to balance the budget. I think most people know something of the condition that we are in, some of the conditions that we need to change. One of them is to balance the budget.

Let me read from this column, the Parade magazine column. This author uses this example:

> Let's suppose you have an income of $125,760 that comes not from work but from the contributions of all your friends and relatives who work. You're not satisfied with what $125,760 can buy this year, so you prepare yourself a budget of $146,060 and charge the $20,300 difference to your credit card, on which you're already carrying an unpaid balance of $472,548 . . . on which you pay interest daily. Multiplied by 10 million times, that's what our government did in the fiscal year of 1994.

That is what we have been doing, putting it on the credit card for these young people who will pay for it. We maxed out the credit card. We will be working in the next month to have to raise the debt limit to $5 trillion. So balancing the budget, most everybody

understands, is something that has to be done.

Medicare and Medicaid. Clearly if you think Medicare is something you would like to have in the future, if you think health care for the elderly is something that we should maintain and strengthen, then you have to change. The trustees say you have to change. It cannot continue to go on the way it is.

Welfare. Most everyone who has watched welfare at all would agree, first of all, with the concept that we ought to have programs that help people who need help, but that they should be designed to help people help themselves to go back into the workplace. That has not worked. There are more people in poverty than there were when Lyndon Johnson was here and started this whole system.

Yet each year in the interim, as things did not go well, the solution was to put more money into the same program and expect different results, which of course, does not happen.

Reduction of taxes allowing people to spend more of their own money, is that not a concept? And we are seeking to do that.

So that is what we need to do. Unfortunately, we need to come together on these principles. We need to come together to move forward in an area that will accomplish these things. And guess what? Guess what? We do not have any leadership from the White House. These are the things that the President has said he is for—balancing the budget, saving Medicare, reforming Medicaid.

He wrote a letter when he was Governor in 1989 asking that some of the mandates be removed so that the States would have more flexibility. That is what we are trying to do. The President in his campaign was the one that was going to change welfare as we know it. These are the things that everyone will stand up and agree we need to change. And all we find is resistance and denial, that, ''No, we can't do that. No. That is too fast. That is too much. That isn't the right way.''

So we end up in something of a gridlock, a gridlock that I think we will overcome, a gridlock that we will overcome and still maintain the principles that are involved in making these things succeed.

Let me talk just a minute about what happens if we do not do something. If we do not do something about balancing the budget, the deficit will top $460 billion by the year 2005. Now, that is a projection of the Congressional Budget Office. The deficit will be $288 billion in the year 2000 and upward of $462 billion in 2005 if we do not do something different than we have been doing.

The national debt now stands at about $18,000 for each of us. It is a debt of $18,000 per capita. The servicing on the interest of that debt—not the servicing on the debt, not the reduction of the principal—the interest cost each American $800 in 1994. Today's newborn child, who is born today, owes $187,000 over his or her lifetime just to pay the interest on the national debt. That is what happens if we do not do something. If we do not do something, six programs will absorb 75 percent of the Federal budget: 22 percent for defense, 18 percent for net interest, 15 percent for Medicare, 11 percent for Medicaid, 6 percent for retirement programs; that is 75 percent of all Federal revenues will go in those areas unless we make some changes.

With respect to the Medicare tax, we pay now, what, 2.9 percent payroll tax? If we do not slow the program from 10.5 percent down to 6 percent a year in growth, it will require an 8 percent payroll tax instead of 2.9 percent by the year 2030. So we need to make some changes.

On the other side, what happens if we do? As a result of balancing the budget in 2002, a 2-percentage-point reduction in interest rates on a typical 10-year student loan for a 4-year private college would save American students 8,800 bucks. If we could get that 2-percent reduction in interest rates as is predicted, on a 30-year mortgage on an $80,000 home, it would save the American home buyer $107 each month, or $38,000 over the life of the mortgage.

So not only do we have some very destructive kinds of things that will happen if we do not make some changes, there are some very, very positive things that will happen.

So, Mr. President, I hope that President Clinton will reconsider his position and join in a useful dialog in terms of coming to some agreement and seek to deliver on some of the promises he made in 1992. I invite the President to drop the rhetoric and come to the table in good faith.

Mr. President, I now yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

BENEFITS OF BALANCING THE FEDERAL BUDGET

Mr. GRAMS. Mr. President, my freshman colleagues and I have come to the floor again this morning to talk about our plan to balance the Federal budget and what that balanced budget will mean to this generation and, more importantly, or as importantly, to the generations to follow. But no statement that we make today could speak more eloquently than a letter I received from a young Minnesotan in Duluth, MN. He writes to me and urges me:

> I urge you, Mr. Grams, to take a stand for eliminating this overwhelming national debt. It is a cancer that is growing and growing, and something needs to be done soon, if not for your generation's sake, for mine.

For the first time in a quarter of a century, Congress is standing up for the coming generations, and we are standing up to the big spenders who have long dominated the decisionmaking here on Capitol Hill. We have finally said, ''Enough is enough—it is time to return to reality, it is time to stop the wasteful spending, and it is time to balance the Federal budget,'' and that is what we have done with our revolutionary budget plan that eliminates the deficit by the year 2002 without raising taxes and without drastically slashing Government spending.

Ask Minnesotans if they think the Federal Government ought to balance its budget, and most people would say, ''Well, yes, of course,'' after all, Minnesota families have to balance their own budgets every month, altering their spending habits to keep pace with the paychecks coming in and the bills that are going out.

The corner grocer, the video store owner, and every other job provider has to do the same thing. It is the responsible thing to do, and at a time when the taxpayers are demanding accountability in Washington, a responsible Congress is expected to meet those same standards that we ourselves have to meet.

Besides the obvious benefits that come with prudent financial management, balancing the Federal budget offers tremendous economic benefits for all Americans—and my friend from Wyoming just went a through a list—through lower unemployment, lower interest rates, and a higher standard of living.

The story of the credit-hungry power shopper really illustrates why.

With a new job and a pretty good salary to go along with it, he applies for and receives his first credit card. An incredible shopping spree follows, and then another and another, and it does not take long before he reached his credit limit. Now he has three choices: Stop spending so recklessly; ask for more credit; or go to your boss and ask for a raise.

The spending has become addictive and he is not about to stop. He already spent his last raise, so he phones the credit company and asks for additional credit. They are happy, of course, to oblige and he is off on another spending spree.

This pattern continues for several years until he has increased his credit line to the point now where his monthly payments are barely keeping up with the interest that he owes on his tremendous debt. He has spent every raise in advance without a second thought, yet refuses to stop spending. He knows what he is doing is wrong and, in the back of his mind, he understands that he cannot keep doing this forever, after all, sooner or later the credit card company is going to come after him for their money, and that is the very position that our Federal Government finds itself in.

For four decades, the Government has been that uncontrollable shopper, raising taxes, spending hundreds of billions of dollars more than it takes in and, in the process, it has dug this Nation into a $5 trillion debt. Whenever it

reached the credit limit, Congress would vote to increase it. Whenever it needed to ask for a ''raise,'' it would vote to increase taxes on middle-class families.

But now the Federal Government is in the very same position as that overeager shopper. We have now reached the point where we are only paying enough on our national credit card, so to speak, to cover the interest, let alone trying to make any dent at all on the principle. In fact, this year for the first time, we will pay as much in interest on the debt as we will on national defense.

Let us be clear, the call to raise the debt ceiling is so that this Government can go out and borrow another $25 billion so it can just make an interest payment.

Let me say that over again. The reason the debt ceiling is going to have to be raised is so this Government can go out and borrow $25 billion to meet an interest obligation. That would be like you or me going to the bank and borrowing money so we could come home and make an interest payment on our credit cards.

Usually when we go to the bank to borrow some money, we do it in order to purchase something—a home, a car, or other goods—and we do get something in return and then we plan to make the payments, both principle and interest, out of income that we have. But we have a Government that is now so out of whack that we now are asking the taxpayers to let us borrow more money so we can just pay the interest. In other words, it is like you taking your Visa card and paying off your MasterCard.

Because the Government is borrowing so much money, the dollars that would otherwise be available to the job providers, to the home buyers are no longer there. They have been sucked up by this Government.

Without those investment dollars that could go to the private sector that are now going to the Federal Government, companies have been forced to put their long-term investments, such as new facilities and new equipment, on hold, and those are the type of investments that create the jobs that we need. Those are the investment opportunities currently being undermined by the Government.

That has been especially hard on the economy, because when American businesses are not making long-term investments or cannot find the money to do it, the jobs are not being created, productivity is slipping and incomes do not grow. Balancing the budget and eliminating the deficit will free up those valuable dollars for investment allowing businesses to create new and higher paying jobs, by some estimates as many as 6.1 million new jobs by the early part of the 21st century.

Under a balanced budget, interest rates will decline by up to 2 percent, making loans for education, automobiles or startup businesses more affordable. For home buyers, a 2-percent drop in the interest rate would drop mortgage rates on average $100 a month. Those lower interest rates could boost a household's annual income by an additional $1,000 a year by the year 2002 and raise a family's standard of living to go along with it.

Mr. President, I was listening to the distinguished junior Senator from North Dakota while he was speaking on the floor one day earlier this year. I have to thank him for introducing me to a very interesting book. It is a children's book, and it is something I think my grandchildren are going to enjoy, but its central message certainly has a special meaning for here in Washington as well.

The book referred to is called The Berenstain Bears Get the Gimmies. The plot resolves around the little bear cubs in the family during a trip to the mall. It seems they have been infected with the ''gimmies''—gimmie this, gimmie that, gimmie the other thing. The cubs were asking for everything in sight on this shopping spree, never giving a thought to the price tag, and it was driving the parents crazy.

Well, for 40 years, the Federal Government has been infected with the gimmies, as well. Every pork project it wanted to dole out, every new social program it wanted to bankroll, it just said, gimmie. The Government got what it wanted because the liberal Democrats had the votes to take the money, and it always gave away the bill to the taxpayers.

Well, this Congress is finally putting a stop to the gimmies because it is the only way we will ever begin to restore fiscal sanity.

Along with cutting taxes for working-class Minnesotans, balancing the budget by finally getting spending under control is the most important statement this Congress can make to the American people that we have heard their calls for reform.

Balancing the budget demands patience, however, because the greatest benefits from eliminating the deficit will not be realized tomorrow—it is not a short-term political fix—but rather 5 or 10 years from now, for our children and grandchildren's future.

Mr. President, it is our moral responsibility to free the coming generations—our children and grandchildren—from the burdens of paying decades of extra interest payments because of this generation's extravagant spending. We cannot continue to spend our children's money.

We have made a lot of promises, but are we really committed to fulfilling that tremendous responsibility? Does this Congress have the will, the determination, to prove that there is a better way out there to govern than we have seen over the past 40 years?

Our balanced budget legislation should be proof enough that this Congress is prepared to meet that challenge. This is not the easy way out. The easy way out has always been the quick fix, going to the taxpayers and raising taxes, year after year, time after time. That has always been the easy fix, the compassionate fix, to give more money away that we do not have. But when we start picking our children's pockets, I think it is time we face our problems squarely in the eye and take the necessary steps to improve it. Again, this is not a short-term fix. We are not going to realize a lot of the benefits or see it as early as tomorrow, but if we do not, we are going to see the tragedy in our children and grandchildren's faces 5, 10 years from now, when they look back and ask why we did this to them.

I yield the floor.

Mr. THOMAS. Mr. President, I will utilize the remainder of our time.

The PRESIDING OFFICER (Mr. ASHCROFT). The Chair informs the Senator that, under the previous order, the Senator has 5 minutes 6 seconds remaining.

Mr. THOMAS. Mr. President, we have talked largely about balancing the budget. There are a number of other fundamental items involved in what we are doing now, including Medicare, Medicaid, welfare, and it includes doing something about tax reform. I think those are equally important.

At this time, I yield to my friend from Oklahoma.

THE 1994 ELECTION MANDATE

Mr. INHOFE. I thank the Senator. I was listening, and I think I can pretty well summarize why my colleagues are distressed about the demagoging going on in the reconciliation legislation.

We have to remind the American people that there was a mandate that went with the 1994 elections: Less Government involvement in our lives, balanced budgets, and to do something about the tax increase of 1993. In other words, let us offer tax relief and welfare reform and Medicare reform. That is exactly what we have in our reconciliation effort.

I really think that those who are trying to stop these major changes and the revolution from taking place are underestimating the intelligence of the American people. I would like to read a couple paragraphs of something that appeared just the other day. This was the day of the vote in the U.S. Senate of this reconciliation bill. This is a quote: ''I have been in this field all my adult life, almost 60 years now, and I have never seen a change of this magnitude.'' This is Richard Nathan, provost of the Rockefeller College of Public Affairs. He said: ''This is bigger than Lyndon Johnson's Great Society because it is going to profoundly affect the American federalism and social policy.'' And then Jim Richley, a political scientist from Georgetown University, said, ''Nothing on this scale has ever been attempted before.''

I think that it is necessary to talk about the magnitude of what we are doing here. This is something we have

been talking about all these years. This is something that we talked about during the campaign of 1994. And this is something that the President is trying to reject. He has come out and said he is going to veto this. It is very difficult for us to understand how he can talk about vetoing it when these are things he has talked about, when he ran for President of the United States on this very platform—welfare reform, reducing taxes, Medicare reform, balancing the budget. That is exactly what we are trying to do. I want to stick with this and not give in.

There is an interesting statement that was made just the other day by the President. I will quote that statement. I think this gets to the crux of where we are in this debate. He said: ''Probably, there are people in this room still mad at me for the budget because you think I raised your taxes too much. It might surprise you to know that I think we raised them too much, too.''

This is exactly what we have been saying. If you were not for the largest single tax increase in the world—and that is not conservative Republican Jim Inhofe talking, that is the chairman of the Senate Finance Committee when this was passed—if you were not for that largest tax increase that now even Bill Clinton says he was not for, and that was his tax increase, then you ought to support repealing part of that tax increase. That is exactly what we are doing with some of the tax cuts that we are suggesting, Mr. President.

I think that when you talk about the cuts, it is interesting that we have a President now who is saying over and over again that the Republicans are trying to cut Medicare and Medicaid.

I will read you another quote, and this came from the President in a speech to the AARP on the October 5, 1993, just 2 years ago: ''Today, Medicaid and Medicare are going up three times the rate of inflation. We propose to let it go up two times the rate of inflation. That is not a Medicare or Medicaid cut. So when you hear all this business about 'cuts,' let me caution you that that is not what is going on.''

So there is the President saying—very accurately, I might add—back in 1993, that we are talking about slowing down the growth in the areas of Medicare and Medicaid because if we do not do it, the system is going to go into bankruptcy. He is turning around now and saying that which we want to do on the Republican side is cutting Medicare and Medicaid when, in fact, it is not.

So it is a very difficult thing when you are dealing with these moving targets, and you have a President that says one thing one day, has his polls around the White House, and he says something different the next day. That is very discouraging.

A TRIP TO BOSNIA

Mr. INHOFE. Mr. President, I am going to be leaving today, going over to Bosnia. I have never seen something that is as critical as it is today on what the President is trying to do by sending our troops on the ground in Bosnia. Two and a half years ago, I predicted, when the President wanted to do airdrops in Bosnia, thereby giving the Americans a position within that warring faction of three different factions and going with one side against the other in getting involved in it, I said at that time, first, we will have airdrops, then air attacks and, after that, the President is going to want to send troops in on the ground. It was the other day, Michael Rose, the British general, commander of the Bosnian troops—he probably is the greatest authority on Bosnia—said, ''If America sends troops into Bosnia on the ground, they will lose more lives than they lost in the Persian Gulf war.''

Mr. President, I think that is exactly what is going to happen. I asked Secretary Perry and Secretary Christopher in the Senate Armed Services Committee, ''Is this mission that we have in Bosnia—that mission being twofold, containing a civil war and, two, protecting the integrity of NATO—worth the loss of hundreds of American lives?''

Secretary Perry said, ''Yes.'' Secretary Christopher said, ''Yes.'' General Shalikashvili said, ''Yes.''

That is why I am going to Bosnia. I want the American people to know what kind of risk we are sending our troops in there to sustain. It was not until we went month after month, when we tried to get President Clinton, by resolution, to bring our troops out of Somalia—he did not do that until, finally, 18 of our rangers were murdered in cold blood and their corpses were dragged through the streets of Mogadishu. I do not want that to happen in the streets of Gorazde or the streets of Sarajevo.

I think we have a job to explain to the American people what the risks are over there and to stop this obsession that President Clinton has in sending our troops into Bosnia on the ground. I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

THE LEGISLATIVE APPROPRIATIONS BILL

Mr. SIMON. Mr. President, I was going to offer an amendment on legislative appropriations because when we enacted the Hatch Act, unbeknownst to virtually every Member, we passed a prohibition for Members to send letters of recommendation to anyone who is not a schedule C or political appointee.

If any Member sends a letter to a U.S. attorney or to the EPA or anyone else recommending an employee or recommending a friend or anyone else for a civil service position, that is now a Federal crime. It is incredible. It just does not make sense.

I am pleased to say that my cosponsors have been Senator REID, Senator SIMPSON, Senator LOTT, and Senator DOLE has indicated he wants to cosponsor the bill.

I have word that Senator STEVENS is willing to mark up the bill, hold a hearing if necessary, mark up the bill separately, so I will not offer it as an amendment on this appropriation.

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

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

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

Mr. DOLE. Mr. President, I ask unanimous consent the Senate now turn to consideration of Calendar No. 220, H.R. 2492, the legislative branch appropriations bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2492) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, 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. DOLE. Mr. President, I ask unanimous consent that following brief statements, the bill be advanced to third reading and final passage occur, all without further objection or amendment.

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

Mr. DOLE. I will be happy to yield to the manager on the other side and then I will make a brief statement.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I rise to support the passage of the bill, H.R. 2492, the Legislative Branch Appropriations Act for fiscal year 1996. The provisions in this bill are exactly the same as those contained in the conference report on H.R. 1854, which overwhelmingly passed the Senate on September 22, 1995, by a vote of 94 to 4 but was subsequently vetoed by the President on October 3. At that time, as Members will recall, the President indicated

that because the Congress had completed action on only two appropriation bills for fiscal year 1996—legislative branch and military construction—he felt it would be inappropriate to provide full-year funding for Congress and its offices while most other activities of the Federal Government were being funded through a short-term continuing resolution. I am hopeful that the leadership will not send this bill to the President until Congress receives assurances that he will sign it.

For the benefit of Senators, let me briefly point out that this bill required many difficult decisions in order for the legislative branch to do its share in achieving substantial deficit reduction in fiscal year 1996. The bill appropriates $2,184,850,000 for fiscal year 1996 for legislative operations, which is a reduction of over $200 million from the 1995 level, or approximately 10 percent. The majority leader has cited the important features of the bill, which I will not repeat at this time, but, Mr. President, I do want to again thank Senator MACK, the chairman of the Legislative Branch Subcommittee, for his unfailing courtesy and to express my appreciation to him for the open and bipartisan spirit in which he has handled this important legislation throughout the year.

I urge my colleagues to vote for H.R. 2492.

I yield the floor.

Mr. DOLE. Mr. President, I thank my colleague. I am pinch-hitting for Senator MACK of Florida, who is, right now, involved in a very important hearing on the Banking Committee. Let me indicate I will place in the RECORD at this point a summary of the funding recommendations.

As pointed out by my colleague from Washington, this is a reduction of about 8.6 percent. We believe we are setting an example for other branches. There are a number of areas where we made rather significant cuts, also terminating the OTA, for example, something that was not easy for many of my colleagues. But it is an indication we are concerned, we are sincere about a balanced budget, and we are prepared to do our share or more.

The bill includes a provision relative to the disposition of the records and property of the Office of Technology Assessment subsequent to its closure. Specifically, the agreement provides that OTA's property and records ''shall be under the administrative control of the Architect of the Capitol.''

The Office of the Senate Historian has raised a concern that this provision not interfere with the transfer of archival material of the Office of Technology Assessment to the legislative archives of the National Archives. It is my understanding that the conferees had no such intent, and that the Architect of the Capitol will only assume temporary, administrative control of the material before transferring appropriate records to the National Archives.

It is also my understanding that the Clerk of the House, after discussions with the Secretary of the Senate, has agreed that OTA's archival material shall be treated as records of the Senate and administered according to Senate Resolution 474 of the 96th Congress. This will give the Secretary of the Senate administrative jurisdiction over the archival records.

Mr. President, I ask unanimous consent a statement of a summary of funding recommendations be printed in the RECORD at this point.

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

SUMMARY OF FUNDING RECOMMENDATIONS

The total recommended is $2,184,856,000, a reduction of $205,698,700, or 8.6%, from FY95.

GAO is reduced 15% from FY95 levels; Committee is committed to another 10% in FY97 for a 25% reduction from FY95 levels over two years.

OTA is terminated; termination costs totalling $6,115,000 are provided. ($3,615,000 in FY96 funds, $2,500,000 reappropriated from FY95.)

Library of Congress granted $1,500,000 over FY95 for digital library initiative; all other Library activities, including CRS, at FY95 level.

CBO granted $1.1 million and 13 FTE's for unfunded mandates analysis.

Architect of Capitol activities in Title I reduced $16,163,000 overall (10%) from FY95 levels.

Joint Committees reduced commensurate with Senate committee cut.

New ''Office of Compliance'' created by Congressional Accountability Act funded as a joint item at $2,500,000. A permanent indefinite appropriation is recommended for settlements and awards arising from the new Accountability Act.

Total recommended Senate funding is $426,919,000, a reduction of $33,661,500. In addition, $63,544,723.12 from prior year funds is rescinded.

Committee funding is reduced 15%; Secretary of the Senate, Sergeant at Arms, and OFEP reduced 12.5%; Chaplain, Legal Counsel, and Legislative Counsel frozen at FY95 levels.

Official mail frozen at $11,000,000. (N.B. House merged official mail with office accounts.)

Statutory allowances for Senators' personal offices are not reduced.

Mr. DOLE. I also confirm the Senator from Alaska, Senator STEVENS, has, as indicated by the Senator from Illinois, Senator SIMON, agreed to have hearings and a markup of an amendment that Senator SIMON would have offered to this bill.

So there are no amendments, no objections to it proceeding.

The PRESIDING OFFICER. The question is on the third reading and passage of the bill.

The bill (H.R. 2492) was ordered to a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call will 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 (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent to address the Senate for a period of up to 20 minutes as if in morning business.

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

FIVE STEPS CLINTON MUST TAKE TO PROVE HE IS SERIOUS ABOUT BALANCING THE BUDGET

Mr. GREGG. Mr. President, last week we passed out of this body the reconciliation bill which will lead to a balanced budget. This is obviously a significant step on the road to guaranteeing our children a nation which can be prosperous and which is solvent. I believe most Americans understand the importance of the balanced budget. They certainly expressed it in my district, and I am sure in other States, year after year as they have gone to the polls. They understand it because in their homelife they experience the need to maintain fiscal solvency. They know that if they continue to spend every year more than they take in, it will lead to some sort of economic chaos in their own lives, and intuitively and logically they understand, therefore, that for the Federal Government to do that, not only year after year but what has amounted to generation after generation, leads inevitably to economic chaos.

So the Republican leadership in the Senate and the House has produced a budget which will give us a balanced budget by the year 2002. For the first time in years we will actually be living within our means. This is, I believe, a critical step on the path to assuring, as I said earlier, a solvent nation for our children, which is, I believe, our No. 1 responsibility as keepers of the flame of America as Members of this Senate.

The question, however, is whether or not the President will join us in this effort in a serious way. The President has repeatedly said that he wants to balance the budget. But so far his actions have certainly not matched his words. Although we have produced a serious proposal for balancing the budget, which the Congressional Budget Office has scored as being in balance, and are now trying to iron out the differences, we do not find that the President has been willing to join in substantively discussing this matter in a serious way.

Conventional wisdom holds, in fact, that the President will veto this bill and then he and the Congress will negotiate and reach some type of agreement, hopefully. But I am not so sure.

I say this because before we can negotiate, the President, despite all his nice political statements, still must prove he is truly serious with accomplishing a balanced budget. So far, he has not taken this action. He certainly has not proved it either to the Congress or to the American people.

In my view, there are five things which the President must do if he is to prove that he is serious about the issue of balancing the budget. These go beyond the rhetoric of campaign promises. I would like to go over these five items.

First, we must start using the same numbers to talk about the issue of balancing the budget. The administration began its term with a very grandiose statement back in February 1993 fresh off the election that they would use the Congressional Budget Office for the purposes of determining the fair scorekeeping of the budget process. He made this statement a number of times. But he made it most eloquently when he spoke in his initial speech to the Congress.

In taking this position when he was first elected President, he took the right position, the correct position. The Congressional Budget Office is the fair arbiter of the scoring of the budget process. However, since the Congressional Budget Office scoring process has no longer become convenient to the administration, the President has abandoned his original commitment. This is a mistake. The numbers which he sent up to us in June—which were basically a sheaf of paper and were not really a budget—represented, according to the President and to his people, a balanced budget which we would reach in 10 years. Unfortunately, those numbers used as their baseline and for their assumptions were numbers produced by his own inhouse accountants, the Office of Management and Budget.

When that budget was scored by the Congressional Budget Office, the fair arbiter of budget scoring in this body and which the President had initially said would be the fair arbiter, it turned out that their budget did not reach balance, that, in fact, it represented $200 billion deficits each year for as far as the eye could see and that there was no closure between spending and revenues.

So, the first thing the President's people have to do is be willing to agree to use numbers which are credible and which are acceptable. And I would suggest that we go back to the beginning of this Presidency and follow the counsel that he gave us at that time and use the Congressional Budget Office numbers.

In June, the President submitted a revised budget, and, as I mentioned, it alleged that it would reach balance in 10 years. Unfortunately, he only released 25 pages, and he gave us no specifics as to how he would accomplish this, even in terms of the numbers, which as I mentioned earlier, were inaccurate.

It is essential that we get details, that he—as we have as Members of the Senate and as Members of the House—produce a budget which has the details behind the numbers, which has substance, which has meat on the bones. We cannot possibly reach a budget agreement if we are simply going to work off a sheaf of paper which has no specifics.

We have put down on the table in extensive language what we as Republicans think should be done to correct some of the excesses of the Federal Government, to improve the manner in which it delivers services, to give people an opportunity to have a Medicare trust fund which will remain solvent. We need now to hear from the President as to his specifics in detail as to what he would do in the area of Medicare reform, in the area of Medicaid reform, in the area of welfare reform. Yet, we have not heard that. That is why one questions his sincerity when he talks about producing a budget that will be in balance.

Third, we need to reach an agreement as to when we should reach a balanced budget.

We, as Republicans, have put forward a budget which reaches balance in 7 years. It was not easy. It meant that we had to make some very difficult decisions. We had to agree—amongst ourselves, unfortunately, because the White House was not willing to participate—to agree to take $1 trillion of spending out of the Federal stream of spending. That did not mean we cut the size of the Federal Government. In fact, it will continue to grow by 3.3 percent annually. Medicare will continue to grow by 6.4 percent annually, and Medicaid will continue to grow by approximately 4.5 percent annually. But we did have to slow the rate of growth of those programs, and we did, in a number of programs, actually have to cut spending. For example, defense spending will go down in real terms over the next 7 years by $19 billion.

But we have to have a definable period when we are going to reach a balanced budget. The people of this country have a right to know that we are willing to step up to the issue and define the terms of the issue in benchmarks that are scorable and which we can be held accountable for. We have said we will reach a balanced budget in 7 years. We have produced a budget which accomplishes that. It is absolutely critical that the President give us a timeframe in which he is willing to put forward a budget which reaches balance with real numbers and with details. Recently, he said 7 years was something he could live with. If that is his position today, I believe he should state it. Unfortunately, sometimes his positions change. But hopefully he can stick with the 7-year commitment. If he can, that means we can reach agreement on that one critical point.

Fourth, if we are going to reach an understanding, we have to have the ability to sit down with the President and talk to him in terms that are substantive and not in simply political election-year rhetoric. If you look at what the President sent up here in June and you take those numbers and score them by CBO's accounting rather than by OMB's accounting, you find that we really were not that far apart. For example, in the area of Medicare, he wanted Medicare to grow at a rate of 7 percent. We suggested it grow at a rate of 6.4 percent. Both of those numbers were significantly less than the present 10-percent rate of growth that Medicare is experiencing. That 10-percent rate of growth we know is not sustainable. The Medicare trustees have told us that if we continue to allow Medicare to grow at that rate, it will be insolvent, there will be no trust fund for the seniors from which they can get a health care benefit.

So we have suggested proposals which will give seniors more choices, more options, which we think will strengthen the Medicare system and which will slow the rate of growth to 6.4 percent.

The President sent us up a number which when it was recalculated by CBO—granted, it came up under OMB's scoring mechanisms, but when it was calculated by CBO said we only want Medicare to grow at 7 percent. I believe that difference is not great. And yet if you listen to this administration, they talk in terms of hyperbole which would make you think that the Republican proposal on Medicare was going to slash, was going to devastate, was going to savage the rights to health care which we all recognize are absolutely essential for our seniors.

In fact, the Vice President of the United States had the temerity to come to New Hampshire just a few days ago and speak to a very self-serving audience, the AFL–CIO convention, and state time and again—in fact, I think we found the word ''extremist'' in every sentence during the period of a couple paragraphs—that our Medicare Program was slashing.

If our Medicare Program is slashing, and we are talking about a 6.4-percent rate of increase and the President is talking about a 7-percent rate of increase, which is 3 percent down from 10 percent and we are 3.5 percent down from 10 percent, what is the President's program? He would have to apply the same standards to his own. It would also be slashing. It would also be extremist.

The fact is that neither of the proposals are extremist or slashing. They are both—at least in our case—a reasonable attempt to try to strengthen the Medicare system so that seniors will have a solvent trust fund.

If the President would send up details of his proposal, maybe we could say that his proposal was also a reasonable attempt to accomplish the same goal, but at least the number he is talking about, a 7-percent rate of growth, is something that is within the ballpark,

within the range of doability and certainly within the range of what is necessary to keep the trust fund solvent.

So in substance what he sent up here in June can be discussed, and it can be worked for the purposes of resolving the matter. But when the President and the Vice President talk in such outrageous political terms and use such hyperbole, it is not constructive to the process.

So the fourth thing I think the President must do is stop running for reelection all the time and start trying to govern the country. Is that not his job for the next year and a half? There will be plenty of time to have an election next summer. Let us get about governing the country. Let us start talking some substance around here.

And that comes to my fifth point, which is leadership. If there is one obligation of the Presidency, it is to lead. Regrettably, this President has been leading like a bumper car. It is time that he gave us some definition and direction. It is time that he sent up here a budget based on numbers which everyone can agree are honest and fair, CBO numbers—a budget which has details attached to it, or if not a whole budget at least major programmatic activities that have details attached to them so that we can evaluate them.

It is time he started talking to Members of Congress as if they were colleagues working on a problem rather than opponents created by some political spinmeister that he has hired to do his polling for him. The fact is that leadership does not involve running for reelection. Leadership involves guiding this country through some very difficult times.

So the time has come, in my opinion, for the President to engage in these five areas, to show that he is serious about balancing this budget. We have put on the table serious proposals to balance this budget, to give our children a future, to make sure that this country brings under control its most serious threat to its future, which is the expansion of its Federal debt and the fact that our generation is borrowing from the next generation to finance day-to-day activity that we are benefiting from today.

If the President is serious, he has to address these five points. He has to start using numbers that we all agree are reasonable. And I suggest CBO numbers are the ones that are the best. He has to start giving us some details of what he intends to do in these major programmatic areas such as Medicare and Medicaid. He has to agree to a goal that is scorable, such as a 7-year goal to reach a balanced budget. He has to stop politicizing the issue, using the extreme language that may score well in the polling place but does nothing to move the process along.

Finally and most importantly, he has to give us some definable leadership that shows us where he feels we can reach compromise and govern rather than run for reelection.

Mr. President, I yield back the remainder of my time.

ORDER OF PROCEDURE

Mr. GREGG. Mr. President, I ask unanimous consent that at 12:45, the Senate turn to the consideration of Calendar No. 219, S. 1372, regarding an increase in the earnings test.

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

The Senator from New Jersey.

BUDGET RECONCILIATION

Mr. LAUTENBERG. Mr. President, I have listened with interest to some of the speeches that were being made this morning, and I heard speeches that decry the President's use of his opportunities for political reasons and to disagree with virtually everything that President Clinton has accomplished. I find it a strange anomaly. As Yogi Berra, the famous New Jersey philosopher said, ''It's deja vu all over again.''

I stand here listening to political speech after political speech in which the President of the United States is accused of being excessively political.

I think we ought to look at the record just for a couple of minutes. First of all, we are faced with a reconciliation bill put out by the Republican majority—and I sit on the Budget Committee, and I can tell you this—and this is no surprise—that is going to take care of lots of wealthy wage earners, income earners, big investment yields, at the expense of lots of little people, if I can use that word to describe them, those who are dependent on Medicare for the sustenance, for the maintenance of their health, those who depend on Medicaid, in many cases the only source, the only source to enable them to get the health care they require.

And so it is despite the fact that Health and Human Services has projected an $89 billion program to keep Medicare viable until the year 2000, during which period we will have a chance to evaluate what is taking place, maybe get to work on some of the problems we know exist that are solvable and will not require less to be available to the Medicare beneficiary—waste, for instance. We know there is a significant amount of waste. We know that there is fraud—this is not a secret—amounting to billions of dollars.

Those options ought to be examined before we turn to people who on balance in the senior community have less income than $25,000 a year, to the extent of three-quarters of that population. Three-quarters of the senior citizen population have incomes of less than $25,000 a year; 35 percent have incomes of less than $10,000 a year.

But yet we say here in a majority voice that it is OK. ''We're going to save you from the demise of this program. We're going to save you by making sure you pay more, significantly more, in premiums for part B, in higher copays, in higher deductibles. We're saving you. We're taking money out of your pocket and transferring it over to those on the other side.''

By way of example, the House bill calls for a $20,000 tax break for those making $350,000 a year. The Senate, a more modest program, allows for a $6,000 tax break for those earning $350,000 a year. But at the same time, we are saying to the senior citizens, whose profile and income I just gave you, that they on balance will pay an average of $3,000 over a 7-year period more for their health care.

There is something funny, as they say. And the question is raised, in my mind, whose side are we on? I think it is pretty obvious that on that side of the aisle, from there over, that they are on the side of the wealthy and the comfortable and those who have special access. It is obvious. The arithmetic is there. If only the American people get the full story, then we will start to see changes, I believe.

We have already seen it. Congressmen in my State, who were dead full throttle behind the Gingrich proposal, the Contract With America, have now retreated because they are beginning to smell the ire of the constituency. They are beginning to hear the message that ''We do not want you to take money from us hard-working, modest-income people and transfer it to those who have been fortunate enough to make lots of money in this society.''

So, Mr. President, as we look at the record that President Clinton has compiled, it is a pretty good one. We just finished a year in which we saw one of the smaller deficits in many years, $164 billion, and it is on the decline since President Clinton has taken over. We notice that we have a robust economy, that until the end of September, the economy grew at a very firm rate.

At the same time, we see almost an ideal situation in terms of inflation—modest growth, so little as to be of relatively minor consequence in the perspective that the people in this financial community have.

So, we have seen growth in the economy, we have seen growth in jobs, we have seen inflation under control, we have seen the budget deficit at a relatively low point. And yet the President gets little or no credit and lots of criticism as the debate obscures the reality of what is taking place in this reconciliation discussion: Taking care of those who have money, who have influence, who have power, at the expense of those who work hard, who plan their futures, and who are concerned about what tomorrow brings.

BOSNIA

Mr. LAUTENBERG. Last, Mr. President, we hear about the concerns expressed by people on both sides about Bosnia and about whether or not we ought to have American service people in Bosnia as part of a peacekeeping operation. I think that question is yet to

be resolved. I think it is a dangerous practice to simply say that we will not do it, to describe the situation as throwing our people into the meat grinder.

Mr. President, when America lacks the ability to stand up for human rights, to stand up against abuse of men, women, and children such as we have seen in Bosnia and such as we saw 50 years ago in Europe, when for a long period of time, America was silent while the slaughter went on—Mr. President, we have troops in Korea. They are there to protect democracy. They are at risk. There is some danger that something could go awry and people could get killed or injured, and we do not want that to happen. I want us to have a careful debate about Bosnia. But when America withdraws, as we see what is taking place in Europe, in the old Yugoslavia, where women are routinely raped, where young men are routinely killed, and we stand by doing nothing about it, shame on the free world, shame on America.

I am not talking about troops. A long time ago I felt we should have men supporting the Bosnians by lifting the arms embargo because they were taking a terrible, terrible beating at the hands of a brutal invader. So, Mr. President, I think that as we talk here about the President, about programs, about ridicule, about lack of respect—

Mr. President, I ask unanimous consent that I be permitted 2 more minutes.

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

WORKING TOGETHER

Mr. LAUTENBERG. Mr. President, as we discuss where we have to go, the very difficult times in America—we have problems within our society in terms of crime and in terms of race relations, in terms of building our economy for the next century—I can understand people sticking up for their party because there is a separation of beliefs in many cases—in most, certainly. But to stand here to heap abuse on the President of the United States and try to discredit the office by even the terminology that is used to describe the President, I think that it does us no good, that it, in fact, continues to reduce the civility that used to exist here.

I am here 12 years now—almost 13 years. If nothing else, we had our disagreements, but the tone was far more civil. There was far more interaction between the parties. And now what has happened is this has become a political staging ground.

I hope, Mr. President, that we can do away with some of that, work on the problems, work on the budget, on reducing the budget deficit, sticking behind our country; if a decision is made by the Commander in Chief that makes sense in our review, we support it and not simply use it for another opportunity for a political score.

I yield the floor, Mr. President.

SENIOR CITIZENS' FREEDOM TO WORK ACT

The PRESIDING OFFICER. By unanimous consent, the Senate will now turn to consideration of S. 1372, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1372) to amend the Social Security Act to increase the earnings limit, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I note the presence of the distinguished Senator from New York. If it is agreeable to him, I would like to proceed with the bill. If he is not ready, we could go into a quorum call.

Mr. MOYNIHAN. Mr. President, I most assuredly am prepared to go to the bill and look forward to the Senator's remarks.

Mr. MCCAIN. I thank the Senator from New York. Before I go into my remarks, I want to thank the Senator from New York for his steadfast support over many, many years of the principle of lifting the earnings test. The Senator from New York was kind enough, in a hearing that we had earlier this year, to point out in his own unique, descriptive style how unfair this is for working seniors. I am appreciative of his understanding of the obstacles that were posed to lifting the earnings test but, at the same time, his support of the concept of doing so.

Mr. President, after 8 years of being involved in this issue of raising the Social Security earnings limit, we have arrived at the moment when seniors will no longer be punished by their Government for being required, often by circumstances beyond their control, to work to support themselves and their families.

We begin debate today on long overdue legislation, the purpose of which is best summarized in the legislation's title, the ''Senior Citizens' Freedom To Work Act.'' Mr. President, this bill is not everything that I wanted it to be. I wanted it to lift the earnings test completely. The scoring of that by CBO would have been prohibitive.

What this bill really does is increase, over a 7-year period, the present earnings cap minimum from today's level of $11,280 per year to $30,000 per year. It is over a 7-year period. I will discuss later the factors that motivated us to make it that modest, but primarily it had to do with scoring.

I remind my colleagues that in President Clinton's very important statement during his Presidential campaign book entitled ''Putting People First,'' the President stated, and a direct excerpt reads:

Lift the Social Security earnings test limitation so that older Americans are able to help rebuild our economy and create a better future for all.

That, I think, describes it as well as can be.

Let me also point out, and I will say this time and time again, as I have in the past, this earnings test limitation does not affect wealthy seniors who have trust funds, stocks, pension funds, any other outside income that is not earned income. The only people that are affected by this Depression-era dinosaur are those seniors that go out and work and work because, generally, they have to because of either unforeseen circumstances or the fact that they just simply do not have enough money from their Social Security.

Mr. President, I do not know of a more onerous and unfair tax than that. It would probably astound people to know that if a senior went out to work, that as soon as he or she exceeded $11,000 per year, for every $3 that person earned over that limit, they lose $1 in Social Security benefits. Due to this cap on earnings, the senior citizens, many of whom are existing on low incomes, are effectively burdened with a 33.3-percent tax on their earned income. If you put in Federal, State, and other Social Security taxes, it then mounts up to somewhere between 55 and 65 percent, placing these seniors who are low-income people in the highest tax bracket in America.

I do not want to spend a lot of time going through the history of this, because I have been fighting it, as I said, since 1987. There has always been a reason for not doing it because, one, it was brought up on an appropriations bill, there was no offset, it could not be scored by the CBO, et cetera.

I have always, up until now at least, resisted this business of accepting CBO scoring because it is clear to anyone that if we lift this earnings test, more seniors are going to go to work and more seniors will pay more taxes. So the static scoring idea has never been revealed as being more fallacious than in this type of scoring that goes on.

On September 10, 1992, we had a vote in the Senate on a motion to waive a Budget Act point of order which required a three-fifths vote. There were 51 votes in favor and 42 against.

I want to quote some of those who opposed the motion to waive the Budget Act:

Do not misunderstand us. The idea to raise the earnings test is not a bad idea. We just believe we should pay for raising the limits with offsets or a tax increase.

Another argument was:

We would support Senator MCCAIN's amendment if it were not being offered to an appropriations bill. The Senator is right, we should stop using static models and analysis for economic forecasting. We agree that this amendment would bring additional revenue to the Treasury. Further, we agree with all of the other arguments made by those who favor this bill and who would support this bill if it were freestanding or an amendment to a bill that was not an appropriations bill. Unfortunately, we must urge our colleagues to oppose the motion to waive the Budget Act since it is being offered to an appropriations bill.

So the objections to this legislation in the past were twofold: One, we did not have an offset and, two, it was offered as an amendment to an appropriations bill. I will not go into the obvious reasons why I had to offer it as an amendment to the appropriations bill, but the fact was, I could not get it up as a freestanding bill which I wanted to very much.

Under the static scoring model, which I just described in my view as fallacious, one used by the Congressional Budget Office, this amendment would be scored as costing $9.92 billion. I disagree with the CBO's determination. However, to rectify this perceived problem, the bill does the following: It would mandate that the interest paid to Social Security funds be increased by 0.25 percent each year for the next 7 years. This would ensure the integrity of the trust funds.

To reimburse the General Treasury, which would make this increased payment, the bill then mandates all nonprotected discretionary programs be cut across the board by a uniform percentage equal to an amount necessary to pay the increased interest.

By using this mechanism, the trust funds are made safe and the cuts necessary to pay for the bill, consistent with CBO's position, are spread fairly across the board. Indeed, CBO has informed us that this legislation's overall impact on the deficit is zero.

The bill also mandates that GAO and the Comptroller General engage in an analysis of the actual effect on the Treasury of raising the earnings test and report to the Congress their findings no later than 2 years after the date of enactment of this act. This study will enable the Congress to react to what actually occurs, not to what CBO analysts speculate.

There is not a shred of doubt in my mind that 2 years from now the GAO will report that there is a greater inflow of revenues to the Treasury as a result of lifting the earnings test. There is no doubt about that in my mind; I have talked to too many seniors. I have talked, interestingly enough, to the CEO of Disney who came to my office one time on another issue and, on the way out, said, ''Senator, I understand you are trying to lift the earnings test. Please do so. We want to help you in any way, because the best employees we have at Disney World and Disneyland are''—guess what—''senior citizens.''

The people of the McDonald's franchise came to my office and said, ''Senator, our best employees—our best employees—our most dedicated employees are senior citizens, but there is no reason for them to work in our establishment because $1 out of every $3 they earn is taken away from them, not to mention the additional taxes,'' as I mentioned.

Mr. President, this issue has been ventilated by me and others for a very long period of time. I want to point out that there may have been an argument during the Depression when 50 percent of the American work force at least was out of work. It might have made sense to have disincentives for seniors to go to work.

All you have to do is pick up today's newspaper and you will find that there are lots and lots of jobs available all over America. We should not preclude people by virtue of age, and by virtue of age only, from being able to take advantage of those opportunities in our society.

In 1935 when Social Security was created, we lived in a far different country. It is clear that our situation is not the same now. I want to point out, again, seniors who are without private pensions or liquid investments which are not counted as earnings or affluent children to support them often need to work to meet their most basic expenses, such as shelter, food, and health care costs.

I am sure my colleagues all heard warnings that America will confront in the future a labor-shortage. Why should we discourage our senior citizens from meeting that challenge as the U.S. Chamber, which strongly supports this legislation, has pointed out:

Retraining older workers already is a priority in labor-intensive industries, and will become even more critical as we approach the year 2000.

A number of our Nation's most prominent senior organizations strongly support fully repealing the earnings test. This is a minimal test meeting their just, I repeat, just demand. Everybody is in favor of totally repealing it. As I said, that would be my first priority. For the reasons that I stated before, that is just not possible.

My family is very close friends with a family that lives in northern Arizona near where we live. It is a man and his wife. They have a son. They are in the earnings test age bracket. They have a son who recently had a serious illness and had to have an operation, thereby losing his job. That son has a daughter who lives with him.

My friend's wife, Lorraine Luke, had to increase her hours at the hospital transcribing medical information in order to help their son, who is out of work, and their granddaughter. The Luke family sacrificed enormously. She went to work on a 6-day-a-week basis, and guess what, Mr. President? A couple weeks ago, she received a bill from Social Security for $1,200 because she had exceeded the $11,000 threshold, and they were demanding that money back—money that they had spent on taking care of their son and their granddaughter.

Mr. President, that story is true throughout America. What happened to the Luke family is what happens many times in the lives of senior citizens. Why we should do this to them and why we have done it for so long, in fact, is a national scandal.

Mr. President, I would like to name the groups who have supported this earnings test reform: Air Force Association, Air Force Sergeants Association, American Health Care Association, Association of the U.S. Army, Enlisted Association of the National Guard, Fleet Reserve Association, Jewish War Veterans, Marine Corps League, Marine Corps Reserve Officers Association, National Association of Uniformed Services, National Association of Temporary Services, National Committee to Preserve Social Security and Medicare, National Council of Chain Restaurants, National Military Family Association, National Restaurant Association, National Society of Public Accountants, National Tooling and Machining Association, National Enlisted Reserve Association, Naval Reserve Association, Navy League of the U.S., Sears Roebuck and Co., the Seniors Coalition, the U.S. Chamber of Commerce, and the list goes on and on.

I would like to quote from a few editorials because virtually every newspaper in America has editorialized on this issue at one time or another.

The Chicago Tribune says:

The skill and expertise of the elderly could be used to train future workers, while bringing in more tax dollars in helping America stay competitive in the 21st century.

The Los Angeles Times says:

As the senior population expands and the younger population shrinks in the decades ahead, there will be an increasing need to encourage older workers to stay on the job to maintain the Nation's productivity.

The Baltimore Sun:

The Social Security landscape is littered with a great irony: While the program is built on the strength of the work ethic, its earnings test actually provides a disincentive to work * * * One consequence of this skewed policy is the emergence of a gray, underground economy—a cadre of senior citizens forced to work for extremely low wages or with no benefits in exchange for being paid under the table.

The Dallas Morning News:

Both individual citizens and society as a whole would benefit from a repeal of the law that limits what Social Security recipients may earn before benefits are reduced.

The Wall Street Journal:

The punitive taxation of the earnings limit sends a message to seniors that their country doesn't want them to work, or that they are fools if they do.

The New York Times:

* * * it is not wrong to encourage willing older adults to remain in the work force.

The Detroit News:

Work is important to many of the elderly, who are living together. They shouldn't be faced with a confiscatory tax for remaining productive.

Mr. President, I would like to read a letter from the AARP [American Association of Retired Persons]. I will read parts of it:

DEAR SENATOR MCCAIN: The American Association of Retired Persons commends you for your sustained leadership on behalf of working Social Security beneficiaries age 65 through 69 who are penalized by the Social Security earnings limit. Our nation needs the skills, expertise and enthusiasm of older workers and raising the current limit would

send a strong message to older Americans that they can work and earn more.

The current limit is too low and should be raised so that moderate and middle income beneficiaries who work out of necessity will be able to improve their overall economic situation. * * *

An increase in the earnings limit is overdue. Over the last several Congresses, either the House or the Senate has passed earnings limit legislation, but it did not become law. As you know, AARP has repeatedly supported earnings limit proposals that were paid for in a responsible manner that was consistent with the Social Security Act and did not increase the ''on-budget'' deficit. The Association remains committed to raising the earnings limit in a fiscally prudent way and will work with you and others to ensure the earnings limit legislation is adopted with the appropriate financing.

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

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

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Mr. President, before I yield the floor to my distinguished colleague from New York, who has more knowledge on the issue of Social Security than not only any Member of this body, but perhaps any living American—and I know that it has nothing to do with his advanced age—the fact is that the Senator from New York has been extremely helpful on this issue. The Senator from New York understands it, and his support of the concept of lifting the earnings test has been a vital factor in helping this issue to move along. I want thank him for his consistent knowledge and support on this issue.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, my colleague and friend from Arizona is more generous than even the hyperbole of the U.S. Senate allows. There are some important issues here.

It is interesting to note that issues such as the Social Security earnings test go far back in our history. Indeed it was raised in 1935. And the gentleman who was brought from the University of Wisconsin by Edwin Witte to be on the staff of the Committee on Economic Security that Francis Perkins established, is still very much with us—the former chief actuary of the Social Security system. He was staff director of the Commission on Social Security that President Reagan organized in 1982, and which included Senator DOLE in 1983. It is amazing, the continuity of the persons who have worked with the original legislation, or were in the original administration, and their wisdom and wit is available to us today.

On Monday, Senator MCCAIN and the majority leader introduced S. 1372, a bill to gradually increase the earnings limit to $30,000 in 2002 for Social Security beneficiaries aged 65 to 69. Under current law the earnings test is projected to increase from $11,280 for this year to $14,400 in 2002.

In the past I have supported liberalization of the earnings test, and I will continue to do so in the future. But I have always insisted that any liberalization of the earnings test should be paid for and should be considered in the context of overall policies on Social Security.

This bill does neither.

Under the bill, discretionary outlays are reduced. But this does nothing for the off-budget OASDI Social Security trust fund as outlays in this account are increased by almost $10 billion over the next 7 years. So the bill makes use of a budget gimmick. The interest rate received by the trust fund is increased by one-quarter of 1 percent so as to make it appear that the liberalization of the earnings test is paid for.

And the bill is being considered—on the floor of the Senate, without having been referred to the Committee on Finance. This prevents us from taking into account the other important issues involved in the longrun financing of the Social Security system.

If we want to liberalize the earnings test, this bill should be referred to the Finance Committee where we can have hearings, consider how to pay for it, and how to integrate changes in the earnings test with other Social Security policies.

Let me make clear my support for the concept of increasing the retirement test to about $30,000. In 1990, I introduced S. 1909, a bill to increase the earnings test to $24,720 in 1996—roughly comparable to $30,000 in 2002. But I also paid for that liberalization of the earnings test by increasing the amount of Social Security benefits that would be subject to taxation. While that offset is no longer available, my bill addressed several important issues that are not addressed by the legislation now before the Senate.

First, the liberalization was paid for with offsetting changes in the Social Security program.

Second, the two provisions represented a move toward treating Social Security benefits on a parallel basis with private pensions. Individuals can retire from a company, collect a pension and continue to work in other occupations. And the portion of the private pension not previously taxed—the employer contribution and any accrued interest earnings—is taxed upon receipt of the pension benefit.

Last week, along with every other Member of the Senate, I voted for the Senator from Arizona's sense of the Senate resolution acknowledging the need to raise the Social Security limit. The last clause of that resolution states:

> It is the intent of the Congress that legislation will be passed before the end of 1995 to raise the social security earnings limit for working seniors aged 65 through 69 in a manner which will ensure the financial integrity of the social security trust funds and will be consistent with the goal of achieving a balanced budget in 7 years.

I would say to my friend from Arizona, let us do this, but let us do it right. Let us refer this bill to the Finance Committee and make sure we are indeed ''ensuring the financial integrity of the Social Security trust funds.''

There are two additional things to be said. First, the earnings limitation is a holdover from the 1930's. When the legislation was adopted the unemployment rate was about 25 percent. We did not have precise data on the unemployment rate and we used extrapolations from the decennial census. We counted everybody. We did not know about sampling. In April 1930, there was not much unemployment. And in April 1940, there was not much unemployment and, therefore, the Depression was not reflected in the unemployment data gathered in the decennial census. People did know that large numbers of workers were unemployed. So the earnings test was meant to discourage older retirees from continuing to work. It was meant to persuade people to leave the work force when they had retired. And that is from another era.

We have had extraordinary success with American economic policy since the Employment Act of 1946. In all those years—a half a century, we have had less than 12 months in which the unemployment rate has been above 10 percent, and that was during the 1981–82 recession.

The object of putting an end to the retirement test is not only appropriate, but it is at hand. In 1983, we did this. We arranged that persons who do work and are subject to the loss of benefits because of the earnings limitation are ''made whole,'' I think that is the usage, after they stop working. We phased in the so-called ''delayed retirement credit'' so that by 2005 it completely offsets the loss of benefits. Right now, beneficiaries get back about two-thirds of what they lose due to the earnings test.

Why do you not want people to work beyond age 65 or 62? And why does the Government take benefits away and then give most—and by 2005, all—of them back? It is not the Government's business to tell you when you should work and when you should not work if what you are getting are benefits that you have earned.

One problem I have with this measure is that it is not paid for in the mode I would have thought necessary and pretty central as a matter of principle, which is that all Social Security benefits be paid out of a trust fund financed by Social Security revenues—payroll taxes collected under the Federal Insurance Contribution Act (FICA) of 1935.

This is no small matter. We would not be here today—I suspect we might be here—but with a very different Social Security System. At that time, no sooner did a bit of New Deal legislation get enacted, then it would be challenged and end up in the Supreme Court and the Supreme Court would find it unconstitutional.

Frances Perkins, who was very much a person around Washington in the

1960's when I knew her, described the scene in a garden party in 1935 when Harlan Fiske Stone came up to her and said, ''What are you up to little lady,'' and she was a master mistress at getting men to do things for her because she appeared so helpless, and she said, ''We have this wonderful plan. It would give people retirement benefits, unemployment insurance, dependent children would get support, all these fine things, but every time we do something like this, great members in the Supreme Court say it is unconstitutional.''

He said, ''Tell me a little more, if you would.'' He listened. Then he leaned over and did something no Supreme Court Justice would ever do today. He said, ''The taxing power, my dear. All you need is the taxing power.''

So my distinguished predecessor, Robert F. Wagner, introduced the bill over here and the people did it over there in the Labor Committees and so forth. The bill that was signed by the President of the United States was introduced by a still obscure Representative from North Carolina who was chairman of the Committee on Ways and Means. It came over here to Finance. We passed it out, and in due time it was challenged, and the Supreme Court looked at it and said, ''You say this is a tax. Yes, it is a tax.

''It says here, Article 1, Congress should have the power to lay and collect taxes.'' That is why this is a Finance Committee legislation. We have always paid for Social Security benefits with FICA revenues.

The measure before us pays for these benefits by an across-the-board-reduction in discretionary spending. I think you start at about one-tenth of a percent in fiscal year 1996 and go up to four-tenths of a percent by fiscal year 2002. These are large sums. We have to find about $10 billion over the next 7 years. We will be financing Social Security benefits from general revenues that are not spent on these discretionary programs.

I have to assume that we will cut education programs. We will cut defense programs. We will cut transportation programs. Those outlay reductions will pay for the transfer of general revenues to the trust funds which pay for the increase in trust fund outlays. But these transfers are artificially created, by an increase of one-quarter of 1 percent above the interest rate received by the trust funds under current practice. The current rate is a blend of the actual rates paid on Treasury Securities with a maturity of more than 4 years.

I do not think we should do that. I think it compromises the insurance principle. It compromises the right of the beneficiary to the benefits that is earned by payments into the fund.

There is a nice story about this. In 1941, a very distinguished professor at Columbia, who had been a member of the President's Committee on Administrative Management—the Brownlow Committee—that President Roosevelt established in 1937, called on President Roosevelt to say he had been looking around things here and Social Security revenues were coming in now. They were all being posted, as the clerks will say, by Federal clerks with pens and nibs and cardboards, and they put down the 14 cents or the 22 cents that a person earned.

The professor in question called on President Roosevelt and said, ''I think that is just a lot of extra paperwork we do not need. This is a pay-as-you-go system. Just collect the money and pay it out and stop all this record keeping, which is really not very essential.''

That was Luther Gulick of Columbia University. He lived to the age of 100. He died last year. I called him in upstate New York. He lived on the St. Lawrence River. I went over this recollection with him. His mind was clear as Easter bells and President Roosevelt said to him—you could see Roosevelt doing it: ''Now, Luther, I am sure you are right about the administrative matters, but I never thought of those provisions as a matter of administrative efficiency. I wanted every Social Security beneficiary to have a number and have an account so that''—I hope the Senate will forgive this usage because Luther Gulick recorded—''no damn politician can ever take the Social Security benefit away.'' That is why you have a number. Senator MCCAIN, it is probably your dog-tag number, I would not be surprised. Originally it was not to be used for identification. Now it is. You get them in delivery rooms.

We have never paid out a penny in Social Security benefits that did not represent contributions made to the trust fund. For the longest while, the Federal Government was required to pay both the employer and the employee contributions for members of the Armed Services Committee. They had not done so, and in 1983 we found a big chunk of money that was put in the trust fund.

On that basis, I say we ought not to depart from the principle that entitles you to the money. It is called an entitlement because it is your money. We tax it the way we tax —and we did this in 1993—pension benefits.

You calculate what you paid in, and what you already paid taxes on. Subsequently you pay taxes on the portion that was not taxed—the employer contribution and the interest earnings on your contribution and that of your employer.

So, with the greatest enthusiasm for the enterprise but reservation about the specific financing mechanism, which, in my view, goes to not just a marginal but a central point of the nature of Social Security, I respectfully say I will not support the measure.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, let me just point out how we would cure this perceived problem would be to mandate that the interest rate paid on the Social Security funds be increased by .25 percent each year for the next 7 years. This would ensure the integrity of the trust funds, which is the primary goal and overriding concern, obviously.

To reimburse the Treasury, which would make this increased payment, the bill then mandates that all nonprotected discretionary programs be cut across-the-board by a uniform percentage equal to an amount necessary to pay for the increased interest.

As the Senator from New York well knows, we find money around here all the time. It was interesting to me in the last 24 hours of the budget debate we found $13 billion. I did not find it, but the so-called experts did. I am sure members of Senator MOYNIHAN's staff here, if they were allowed to speak, would describe how they found $13 billion. We seem to find all this money all the time.

Yet, we are seeking to take care of what is a gross inequity, knowing full well there is no one—I say to the Senator from New York, I challenge him to find someone to tell me that there will not, at the end of the day, be increased revenues into the Treasury because more seniors will go and work. So what we are really talking about here is a way of satisfying some paperwork requirements as far as CBO is concerned, which is dictated by static scoring, when the reality is there is going to be more money coming into the Treasury because seniors will be working.

So I appreciate Senator MOYNIHAN's concern about the mechanism, but I have to tell him we have been wrestling with this particular problem for 9 years that I know of. Every time we try to remove this terrible inequity that exists in our society today, we say we cannot find the money. We obviously do not want to take it out of entitlement programs because we are then robbing Peter to pay Paul. It is kind of a kabuki show here, because we know full well from the GAO reports back to us that the money, after 2 years, will not be required because there will be additional revenues. In fact, the funds for Social Security recipients will be increased because as these people work, they also continue to pay into the Social Security trust fund.

Mr. MOYNIHAN. Mr. President, I do not in the least disagree with the point of the Senator about an increased work effort and therefore increased revenues, including direct revenues to the trust funds. What the actual amounts would be, how actuaries would judge them, is beyond my capacity, but there would be some and they would be not inconsiderable.

Even so, I maintained what might seem to be too purist a view but it is one I hold, that only revenues from the trust fund should be used to pay benefits. We will see what the Senate's wish is.

The principle is correct. The issue can be resolved, the sooner the better. But it is my hapless responsibility to say, not this afternoon.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Senator from New York again. By the way, I remind him we had a very interesting hearing on March 1 of this year, where they had several very interesting witnesses including Mr. Meyers, who is another one of those.

Mr. MOYNIHAN. Mr. Meyers who came here in 1934.

Mr. McCAIN. Exactly, the gentleman who probably is really the real corporate knowledge on Social Security, who also at that hearing testified that this earnings test should be raised and that additional revenues would accrue from lifting this earnings test.

I also remind my colleagues it is a fact that $200 million per year are spent just to monitor the earnings test; in other words, to make sure that everybody who is between age 65 and 69 is penalized properly and does not get away with keeping that $1 out of every $3 in their earnings.

So we would dramatically reduce that burden right away and experience an immediate savings of considerable numbers of millions of dollars if we just go ahead and lift it. Because then the Social Security Administration would not have to expend $200 million on an annual basis for that.

I note the presence of my friend from West Virginia on the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank my friend, the Senator from Arizona. One of the things which actually is not generally, I expect, known that much is that Medicare as well as Medicaid are part of the Social Security Act that is being discussed, in fact, by the Senator from Arizona. It has to be said that when one looks at what might happen in legislation, what might be the result of a conference, what might be the result of a compromise following a veto by the President, should that happen, there is a lot of speculation about what might happen. But I think one thing which is very, very clear at this point is that what we are doing in the U.S. Senate and what we have done to Medicare, which is a part of the Social Security Act, is extraordinary.

I would like, in fact, to take from my friends from across the aisle the word which they often use when they are discussing Medicare, which comes from the Social Security Act. They talk about reforming Medicare.

I went, as I do every afternoon at 1 o'clock sharp, to my Webster dictionary, and I took out the word for ''reform.'' I ask unanimous consent when I am finished, Mr. President, if I can have this printed in the RECORD.

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

(See exhibit 1.)

Mr. ROCKEFELLER. It says, ''a: to amend or improve by change of form or removals of faults or abuses; b: to put or change into an improved form or condition.

''2: to put an end to (an evil) by enforcing or introducing a better method or course of action.

''3: to induce or cause to abandon evil ways,'' and then they use the example of a drunkard—odd.

''4: to subject (hydrocarbons) to cracking.''

I think I better stop there because that is rapidly getting into areas which I cannot be quite so sure of.

Then I also, being the persistent intellectual at 1 o'clock every day, in my Webster's dictionary, I went to the word ''raid,'' because that is what those of us on this side of the aisle use referring to what happens to Medicare in the reconciliation bill. That is described, and I would similarly ask that portion which I read be printed in the RECORD.

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

(See exhibit 2.)

Mr. ROCKEFELLER. ''Raid'' is, ''1a: a hostile or predatory incursion; b, a surprise attack by a small force.

''2a: a brief foray outside one's usual sphere; b: a sudden invasion by officers of the law; c: a daring operation against a competitor,'' and, again, here I think the definition is wandering off into different territory.

But my point, obviously, is what we are contemplating, and what it is, in fact, that we have put forth in reconciliation is not yet accounted for, not yet conferenced with the House, and is nothing less than the ''raiding'' of Medicare. I assume that there are those who feel very differently about it. But I do not. I feel very strongly about it. I speak as a representative of the State of West Virginia where the average senior income for seniors in general is $10,700 a year, and 21 percent of that goes already to health care, unless the senior is 84 years old, which increasingly seniors are, in which case it is 34 percent of the $10,700. You can see, therefore, that the amount of money that is being spent on health care already by Medicare recipients, beneficiaries, is enormous.

So the majority party wants to fix Medicare, to reform it. And they want to do that by cutting $270 billion from it, they would say to slow the growth by a rate of $270 billion.

I, incidentally, had responsibility in the 1993 Budget Act, so to speak, for cutting $56 billion out of Medicare. I never referred to it as ''slowing'' the rate of reduction. I always referred to it as ''making the cut.'' And I hold to the same language then as now because that is what I believe. It is like, if you had a certain amount of money 3 years ago and you have the same amount of money now, a hip replacement has gone up by 22 percent in cost, you cannot do 84 percent of the hip replacement. You either do the hip replacement and you can pay for it, or you do not have the money for it and you cannot do it at all. So this whole question of rate of growth is one that I will leave for historians to worry about.

But any way you slice it, if you are cutting $270 billion—and when all the trustees of the hospital insurance trust fund say that you have to cut it $89 billion—then you come to the obvious conclusion that those who would cut $270 billion are saving Medicare for a much longer period of time than those who would only cut it by $89 billion.

But an interesting thing happens. The fact is that, if you cut $89 billion, as the trustees have recommended publicly in testimony and every other way, Medicare will be solvent until the year 2006. On the other hand, if you cut it $270 billion, guess until what year Medicare will be solvent? The year 2006, the same year, the same amount of time.

So the whole question then arises, Why cut $270 billion out if $89 billion will do the job over the period of the next 10 years? The answer, of course, is in the contract phase of the need for the $245 billion tax break. I understand that intellectually because, if you are going to get a $245 billion tax break and at the same time balance the budget in 7 years, you have to get your hand on a whole lot of money, and there is not a whole lot of money in any one pot, except if you go to Medicare, or if you go to Medicaid. Those are the two pots. Those are the two pots that you can go to under reconciliation or a Budget Act, and simply get large amounts of money, if you are of a will to do so.

However, the consequence of what the majority party is doing in the Senate, and has done in the Senate, means that Medicare recipients are going to have to pay enormously more from out-of-pocket expenses—out of their own pocket expenses, and all of this to fund a tax break. There is going to be about $1,700 less per beneficiary by the year 2002. Deductibles are going to be doubled. Premiums are going to be raised. The eligibility age for Medicare is going to go from 65 to 67 years old, and there will be an enormous amount, I believe, of danger in equality and quantity of health care. Let me explain what I mean.

Putnam County General Hospital, Mr. President, is what I would imagine many hospitals are like in the Presiding Officer's State. It is a rapidly increasing county in terms of its income, and in the sense of upscale county. Its future is unlimited. It has most of the flat land, or a lot of the flat land in West Virginia, and a lot of upper income houses as well as middle-income houses. Yet, when you go to the administrator of that hospital, he will tell you that between 68 percent and 72 percent of his entire revenue stream is paid for not by the newly dynamic wealth of Putnam County, not by private-pay patients, but by Medicare and

Medicaid. He says that if this cut is allowed to stand, that Putnam General Hospital is in severe difficulty. The mathematics make it clear—$270 billion cut in Medicare, $187 billion cut in Medicaid, and, hence, real problems for that relatively upscale hospital.

We have a lot of hospitals in West Virginia that do not fit that category. They are in very rural counties. Many shut down some years ago. They depend almost entirely on Medicare or Medicaid for their revenue stream. When I say the ''revenue stream,'' I just simply mean the money they use to pay their doctors, nurses, oxygen, their light bills, and the rest of it.

I believe—I do not really think anybody can make the argument—that the Boren amendment, by which you are meant to pay people much closer to the services that they render, has now been tossed aside. And I believe that doctors, physicians who have been taking care of seniors for many years are—some of them—going to be in the economic position where they will have to simply say on their little shingle, ''Dr. So-and-So. But if you are on Medicare, please do not stop here. I cannot afford to treat you. I cannot afford to treat you.''

In other words, I believe that doctors will be driven out of the program and Medicare beneficiaries will be turned away.

There is another problem which we, in fact, cured in the Senate. This is the most devastating problem. It came pretty much as news to everybody. But it has not been cured in the House. Therefore, I consider it to be a live neutron bomb just sitting there on the table. It was the majority party's efforts to, in fact, get control of the cost of fee-for-service Medicare. Obviously, some Medicare patients are in HMO's. It is estimated that as much as 20 percent may go into HMO's. But, obviously, the great body of Medicare beneficiaries are in fee-for-service Medicare, and they like that. They like that for one reason—because, by definition, over the years it has always meant one thing, and, that is, they get to go to the doctor of their choice. They get to choose the doctor of their choice, they get to keep the doctor of their choice, and use the doctor of their choice. And that is the central, sacred theme of fee-for-service Medicare.

But until it was taken out in the Senate—I will say that the junior Senator from West Virginia probably had something to do with that by talking about it for about an hour one day several weeks ago—there was this thing called BELT which was a mystery. Nobody had heard of BELT. BELT stands for budget expenditure limit tool.

I am not discussing something in the abstract. We thankfully have taken it out of the Senate's package. But it remains—and in fact a rougher one remains—in the House. So that in the conference, where I always have this worry that the House is going to outdo the Senate because of their fervor—they appear to be less willing to negotiate, less willing to compromise on both sides than the Senate, so I always worry very much about the conference. So the way this would work would be that the majority party now in the House would assign about a 4 percent, 4.7-percent growth rate to Medicare, the cost of health care in Medicare.

Now, we know that the actual cost of the increase in health care in Medicare is over 7 percent. But if this rate of growth of the cost of health care exceeded 4.7 percent, automatically—automatically—there would be a sequester and there would be automatic reductions, arbitrary in nature but absolute in fact, in key Medicare spending in the following year. The cuts that are specifically listed were inpatient hospital services, home health services, hospital care services, diagnostic tests, physicians' services, outpatient hospital services. As far as I know, that is most of health care. Mental health and other things are not in there, but that is most of health care. There would be, therefore, this sequestration and a ratcheting down so that the so-called fee-for-service concept for the Medicare beneficiary would simply disappear.

It was all hidden in this little piece of paper and still resides in the House. So I am very, very worried about that.

People listening may wonder why I am talking about Medicare. It could be that the Senator from Arizona is sharing some of those thoughts at this particular point. This is why I am talking about Medicare. I am here to use this opportunity to offer an amendment, which I will do but not immediately, to give the Senate yet another chance to walk away from some of the ills that I have been talking about and give it a chance to protect Medicare from the damage that is contemplated in the two versions, the House version and the Senate version, of the majority party's budget, which is, of course, now headed for a conference where, as I indicate, I worry because I think the House's fervor in some areas is in excess.

I will offer an amendment very soon to do just what we have been trying to get a vote on for 3 days but have not been permitted to get a vote on for 3 days. We have been prevented from being able to do this until this opportunity.

As most of my colleagues know, the Senate still needs to appoint conferees to the reconciliation bill so that we can negotiate some of these matters out. It is amazing that conferees have not been appointed, but they have not been appointed. This side can do nothing about that. That has not been done because the majority leader knows that the Members on this side of the aisle have just a few motions to instruct conferees. We only have a few. Of course, the purpose of this is designed to make one last plea for the prevention of damage to Medicare, for real nursing home protection, and one or two other vital goals. I think there are a total of maybe four or five.

The bill now in the Chamber is a very appropriate place to make the same proposal. So I am here to make sure that when we are on a bill designed to spend billions more on a category of Social Security recipients through the earnings test we first discuss, debate and vote on the question of whether $270 billion is going to be cut from Medicare or whether that will not be the case and whether 30 million seniors are going to see their premiums increase or not, whether they will be turned away from doctors or whether they will not.

So that is my purpose, and I share that respectfully with my colleague and friend from Arizona, who probably wishes that I had picked another time to do all this. But you do have to consider the fact that in spite of the fact that in West Virginia the average income for seniors is $10,700, nationally that same figure is only $17,750.

Most of Medicare spending is for beneficiaries with very modest income, and we have discussed this before, but it bears repeating because I am not sure how far out there into the public this has gotten. Sixty percent of those with incomes of less than $15,000; 83 percent of those with incomes less than $25,000; 97 percent of those with incomes less than $50,000.

This is a Medicare beneficiary population that we are talking about. As I have indicated, seniors already spend more of their income on health care in 1994 than anything else—21 percent. Nonsenior households, interestingly, only spend about 8 percent of their income on health care. Private insurance grew at a faster rate, almost 10 percent, than Medicare spending, which was about 7.7 percent, from 1984 to 1993.

Under the Republican plan, as I indicated, Medicare will be squeezed to a growth rate of 4.9 percent—I believe I said 4.7; I correct myself—4.9 percent per person while private health insurance will continue to grow at over 7 percent per person over the next 7 years, relegating seniors to a second-rate, second-class health care system.

My amendment will be a final opportunity for the Republicans in the Senate to defend—not raid but defend—the Medicare trust fund from a mind-boggling raid, a raid that will cut health care benefits, that will increase seniors' costs and threaten the very existence of hospitals, a raid that is designed purely and simply, mathematically, architecturally, self-evidently to pay for tax breaks tilted in favor of the most affluent, comfortable households in our great country.

The reconciliation bill passed at 1 a.m. on Saturday last will cut Medicare by $270 billion over 7 years. We all know that. We have all been told that this will save Medicare, keep it solvent, make the program stronger. Wrong, Mr. President, wrong and wrong again. The professional experts

in charge of keeping the books for Medicare, the actuaries, the professionals, the people who do this for a living, say that $89 billion will solve the problem.

That is not the long-term problem. That is the short-term problem, from now through 2006, and then our suggestion would be that we do exactly what Ronald Reagan did, wisely and effectively, in 1981, when he appointed the Social Security Commission which came out in 1983 in fact with a solution for Social Security, a solution which was accepted by the people of this country, accepted by the seniors of this country, accepted by the Congress of this country, both sides of the aisle, because it had been entered into with the understanding that it would be done with the idea of it being fair, nonpolitical and, therefore, worthy of the support of all, including the President of the United States.

It was an extraordinary ability. Senator MOYNIHAN and Senator DOLE were two of the members of that commission. What they did in service to their country and in service to the Social Security commission is little noted, but can never be forgotten by those who understand the consequences of their actions.

Hospitals, doctors, and nurses and other health care providers in every single one of our States believe, with absolutely certainty—they do not equivocate—that cuts of this size, the $270 billion, will disintegrate the kind of health service that 30 million senior Americans have counted on for three decades, in a program that works, in a program that works in part because, prior to its passage, less than half of Americans had health insurance who were of the senior age.

Why? Because if you are at the senior age and you have any kind of ailments at all, or you are just senior age, you cannot buy health insurance. If you have anything wrong with you at all, you cannot buy health insurance. You can have $10 million and you cannot buy health care. That is why Medicare took place. Now 99 percent of our senior population has health care insurance. What a wonderful thing that is, what a marvelous thing that is.

I have no way of explaining to my constituents back in West Virginia, to the 330,000 Medicare beneficiaries in my State, why their Medicare deductibles will double, their premiums will skyrocket, and West Virginia hospitals are threatened with the possibility of losing $25 million in 1996 and more than $681 million over the next 7 years.

I keep saying I wish this were some kind of a dream. But the threat is real, and it is not a dream. It is written into the pages of the bill that has been passed, unless, of course, we decide to change it. I can only report what I read in this budget package. So, $270 billion would be cut out of Medicare, $225 billion will be given—some say $245 billion, some say $225 billion—will be given away in tax breaks and giveaways.

Then, Mr. President, there is the $187 billion which is sliced out of Medicaid, which is integrated into Medicare in its effect on our health care system, leaving the Medicaid system in tatters, as it is chopped up into block grants, something which States, no matter what their Governors might say, do not want—do not want.

Talk to George Voinovich, talk to Christine Whitman, talk to some of those Republican Governors who have the courage to say what they feel. Talk to any of the Democrat Governors. I mean, I was a Governor of my State for 8 years. I know our present Governor does not want any part of it, because all he does now in his regular session, and then special sessions, and then additional special sessions, is try to figure out how to come up with more money to pay for Medicaid. Medicaid is about the only subject they even talk about.

It is true, Mr. President, it is a terrible crisis in our State as it stands today, much less cutting $187 billion out of it and block granting.

The response on the other side will be that we are exaggerating, we are trying to scare seniors. We do not agree with that. This budget is scary. The seniors I have talked to are scared. And, interestingly, they have become scared at what I would call a very rational pace, if I can explain myself. Some of the groups responsible for communicating with seniors have been rather casual about this whole subject, in my judgment. Indeed, the American Hospital Association for a period of time was rather casual about dealing with this subject.

But, interestingly, seniors began to understand what the consequences to their lives might, in fact, become. They began to get very angry, very angry. And then some of the groups here in Washington started reacting to them. The hospital administrators already were very angry. They were angry months ago. But their association was not listening here in Washington as closely as it could have been. Now they are. And the American Hospital Association very much dislikes, and is very much opposed, and very blatantly and openly opposed, to these kinds of cuts because of what it will do to the hospitals that take care of the sick, including seniors in our country.

EXHIBIT 1

[From Merriam Webster's Collegiate Dictionary, 10th edition]

[1]**re-form** \ri-'form\ *vb* **[ME,** fr. **MF** *reformer,* fr. L *reformare,* fr. re- + *formare* to form, fr. *forma* form**]** *vt* (14c) **1 a:** to put or change into an improved form or condition **b:** to amend or improve by change of form or removal of faults or abuses **2:** to put an end to (an evil) by enforcing or introducing a better method or course of action **3:** to induce or cause to abandon evil ways <~a drunkard> **4 a:** to subject (hydrocarbons) to cracking **b:** to produce (as gasoline or gas) by cracking ~ *vi:* to become changed for the better **syn** see CORRECT

EXHIBIT 2

[From Merriam Webster's Collegiate Dictionary, 10th edition]

[1]**raid** \'rād\ *n* **[ME** (Sc) *rade,* fr. OE *rād* ride, raid—more at ROAD**]** (15c) **1 a:** a hostile or predatory incursion **b:** a surprise attack by a small force **2 a:** a brief foray outside one's usual sphere **b:** a sudden invasion by officers of the law **c:** a daring operation against a competitor **d:** the recruiting of personnel (as faculty, executives, or athletes) from competing organizations **3:** the act of mulcting public money **4:** an attempt by professional operators to depress stock prices by concerted selling [2]**raid** *vi* (1865): to conduct or take part in a raid ~ *vt:* to make a raid on

AMENDMENT NO. 3043

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] proposes an amendment numbered 3043.

Mr. MCCAIN. Mr. President, I ask further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. I object.

The PRESIDING OFFICER. There is an objection. Objection is heard.

The clerk will read the amendment.

The assistant legislative clerk read as follows:

At the appropriate place insert the following:

It is the sense of the Senate that the conferees on the part of the Senate on H.R. 2491 should not agree to any reductions in Medicare beyond the $89 billion needed to maintain the solvency of the Medicare trust fund through the year 2006, and should reduce tax breaks for upper-income taxpayers and corporations by the amount necessary to ensure deficit neutrality.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I say to the Senator from West Virginia that I am very disappointed, of course, he would put this amendment on a bill that is very important to the people of his State. He stated the average income of the elderly in the State is $10,000 a year. It seems to me that he would be eager to, as quickly as possible, give them an opportunity to earn a sufficient amount of money in order to be able to better their living standards and raise their income.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

Mr. MCCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

Mr. KERREY. Mr. President, I would like to talk a bit about this bill. I know the Senator from Arizona has worked on this for, I guess, 7 or 8 years now. And I know for at least the time I have been in the Senate this has been an active interest of his, and he has played a very constructive role in raising this earnings test in the past.

Unfortunately, I was not here when he made his opening statement. This is a very—fortunately for all of us who have trouble reading some of these bills—a very short piece of legislation, and I do not want to make any comments on it that are inaccurate. But, as I understand it, what we basically have in the law right now says that for a period of 5 years, from age 65 to 70, there is an earnings test. After 70 there is no earnings test. During that period of 65 to 70 years of age, beneficiaries of Social Security payments are penalized. They have actual reduction in their benefits as they receive income. I think the test is at $11,200 today.

What this piece of legislation would do is, over time, take that 5-year window, that penalty, up to $30,000 over a 5-year——

MCCAIN. Seven.

Mr. KERREY. 7-year period of time.

Mr. President, in general, I have supported and on a number of occasions have actually voted for raising this earnings test. I must say I have very strong mixed feelings about it. I would like to just talk, and I am not going to offer any amendment at this point in time. When I am through, I will put the Senate back in a quorum call.

I have had the opportunity to examine and spend a great deal of time looking at Social Security as a program. Senator SIMPSON and I, in fact, have developed a piece of legislation, S. 825, that we have introduced in this body to reform the Social Security Program, that has a different purpose than what the Senator from Arizona is attempting to do, and I find myself increasingly sort of obsessed with this issue and talking sometimes when no one particularly cares to hear about it. But I would like the take this opportunity, for a moment, to talk a bit about what I think needs to occur with the Social Security program to improve it for different objectives.

First of all, it must be understood that Social Security is an intergenerational commitment; it is a very strong and powerful commitment.

It is not a retirement fund. There is not an account held for individuals that they own. We have a calculation that you can get. If you send in to the Social Security Administration and ask them, they will tell you how much you have paid in and they will tell you approximately, based upon your current earnings at least, what you are going to be paid when you retire.

It is not a defined contribution system. It is a defined benefit system. We are told what our benefits are, and it is a very progressive system, though the contribution is flat and, as a consequence, I think fairly you can say the contribution system is a regressive system of taxation, which is, interestingly, one of the reasons that a recent poll, that was very controversial, the New York Times did asking a number of questions about the budget reconciliation agreement. The lower the income, the higher the enthusiasm for a tax cut. The lower the income of Americans who are in the work force, the more enthusiastic they were about their tax cut. I argue that is because the payroll tax and the other taxes that lower income people pay who are in the work force tends to actually force them to make painful and difficult choices. That is probably why that is the case.

Nonetheless, it is a regressive tax, but it is a very progressive payment system. That is to say, there are bend points in the calculation which will actually decrease my income from Social Security in order to make sure that people with lower incomes will, over their working life, get a higher payment. We have designed it in that fashion.

So I want to take this opportunity to, again, make it clear to citizens who sometimes write me and say, ''I've got an account there; I paid in it all my life; I am getting out what I paid in,'' that is not true. We are not paid what we pay in. We usually get back more.

The system is designed to provide us with a supplemental source of income. Unfortunately, for a variety of reasons, not the least of which are tax law changes and pension law changes that make it more difficult for people to provide private sector pensions, increasingly people see Social Security as a primary source of income. The percentages are increasing of those who have as their only source of retirement income the Social Security System.

Accurately described, Social Security is a very strong and, I think, correct intergenerational commitment. It is an intergenerational commitment. Every time I give a speech like this, people call and say, ''KERREY wants to get rid of Social Security.'' I do not. It is a very strong commitment that is made on behalf of people who are retired by people who are not retired to allow a fixed percentage of their wages to be taxed and distributed to those who are retired. That is basically what it is.

When it began, the first payment that was made in 1935 took 1 percent of our wages, and the reason it took 1 percent of our wages is the promise to pay was to begin 6 years after normal life expectancy. Normal life expectancy was approximately 59; 65 was the normal eligibility age for Social Security in 1935. Today, it is still 65.

The good news is we are living longer. That is very good news. I do not want anybody to think that I think we should be dying earlier. I am glad, through medicine, through research, through changes in lifestyles, and so forth, that people are living longer. That is good news. That is my intent, anyway.

But now the promise continues 11 years after the age of 65. Normal life expectancy is now 11 years beyond this normal eligibility age, which is age 65. There is an early eligibility age of 62 and there is a normal eligibility age of 65 written into law, both of them begin considerably before normal life expectancy ends.

It would be bad enough if we were dealing with sort of constant numbers in terms of the number of people retiring, but we are not. My generation did not have as many children as our parents thought we were going to have. So, when the baby boomers start to retire in 2008—60 million of us, by the way—if anybody doubts this problem is caused by Ronald Reagan, George Bush, or Bill Clinton, it is a demographic problem not caused by any political leader; it was caused by a generation.

(Ms. SNOWE assumed the chair.)

Mr. KERREY. Madam President, the point I am trying to make here is we have a tremendous problem with Social Security. The longer we wait to address it, the more difficult it is to address, and the problem is a demographic problem.

The problem is also one of perception. Many citizens are of the view that Social Security is a fund that is held for them and it is available to them when they retire. That is not what it is. We pay into it, but it is an intergenerational commitment made by people who are in the work force today to allow a fixed percent of their wages to go to people who are out of the work force. It is a contract. It is a contractual arrangement, and everybody out there in America, whether they are currently eligible or will be eligible in the future, understands that contract is there for them.

There are really 260 million Social Security beneficiaries. It is just that 30-some million are currently eligible. All the rest will be eligible. All Social Security beneficiaries up to about the year about 2006 or so are currently alive. What you have to do is look and ask, ''Not only can I write the checks today, but how am I going to do in the future?''

In 1983 when we changed the law, what we did for the first time was break the pay-as-you-go system and create, in effect, a system where the reserve is going to build up to a very large amount. Unfortunately, we have been borrowing it and using it to pay budget bills since 1983. But that number drives up to a very large amount and then drives down starting at about the year 2013 until the fund is completely expended in 2029.

When I say 2029, people say, ''Fine, let's just wait until 2029.'' Madam

President, the longer you wait, the bigger the adjustment is. We may be able to jog and we may be able to quit smoking or drink in moderation, whatever you want to do to hopefully extend your life, but you do not get those years back. When you are trying to take advantage of compounding interest rates in a savings, a collective savings, time is not on your side. Every year you wait, you do not get that year back.

The people who will pay the price for it are not the current retirees, but it will either be future retirees or my children who are going to be scratching their heads trying to figure out, ''Do I cut dad's Social Security payment substantially or do I have my taxes go up in a rather substantial fashion?''

We are going to see a decline in the number of workers per retirees starting in the year 2008 that is without precedent. There is no precedent for it, and there is no possibility we are going to see gains in productivity that are sufficient to be able to allow less than three workers per retiree to be able to produce what five workers per retiree are producing today.

Madam President, there is a need for us to change this trend line of Social Security payments so that we can say to all beneficiaries—those who are eligible today and those who are eligible in the future—that we are going to be able to write your checks.

Today, you cannot say that. Today, if you look at somebody under 40, you have to say to them, ''The current law will not allow me to write a check to you. I am going to have to make an adjustment.'' The longer I wait, the bigger the adjustment; the longer I wait, the higher the taxes have to be or the larger the cuts have to be in current beneficiaries. That is problem No. 1.

Problem No. 2 with Social Security is that it is a very rigid system. The legislation of the Senator from Arizona addresses one part of that rigidity. That is, we have a rule, a Federal rule—a law, actually—that the Senator is trying to change that says for a 5-year period of time, from age 65, which is normal eligibility age. It is not normal retirement. You can wait to retire or you can retire early or retire any time you want, but you are eligible for a payment from the Federal Government, full payment at 65 and an early smaller payment at age 62. The rules say I have to wait until I am 65 to get a payment, and for 5 years, if my income exceeds $11,200 a year, you are going to reduce the payment that I get.

It is a very rigid system. I believe what needs to occur and what Senator SIMPSON and I have done with our legislation is said, let us change the law so that 2 percent—we start with 2—so that 2 percent of the 12-percent payroll tax goes into a personal investment plan for individuals when they start working that has three big advantages: First, a much higher rate of return. Let it be known to all citizens that one of the problems we have with Social Security is they are invested in non-negotiable Treasuries, the lowest possible rate of return that you can have out there.

The lowest possible rate of return that we have—less than 2 percent and closer to 1 percent—does not even double twice during the course of a 45-year working life. It doubles once, that is all. A higher rate of return. In the FERS account, it is not unusual for our employees to say they expect to get 8 to 10 percent when compounding it. That means they are going to get a doubling, over a 45-year period, of six times—a substantial increase as a consequence of taking advantage of a higher rate of interest.

Secondly, Madam President, the advantage is that it is more flexible. Some people have attacked the proposal that I have made, saying that we are going to adjust the eligibility age from 65 to 70, which we do. It does not affect anybody, by the way, over the age of 50, that is not in the baby-boom generation, that is already retired, or will retire during the next 10, 15 years. We do increase the eligibility age. But by establishing this personal investment plan, we give something to the individual that they own and can take at age 59½ under the current individual retirement account law.

So the second thing is that it is more flexible. You can tailor it to your own needs, rather than being dependent upon Congress changing the law to satisfy whatever your individual requirements are.

Third, Madam President, we do change it so that you own it. Unlike the current system, if you happen to, unfortunately, not make it to age 65—let us say at age 64 you die—all those moneys that you paid in go to somebody else. You do not get anything out of it. It is a collective pool. Under our proposal, the individual owns it. They have an asset. Done correctly, it can be a way for us to help Americans of all incomes acquire wealth—$1,200 a year, dedicated into an average savings account over a 45-year period, will convert that individual into a millionaire.

Well, Madam President, that is exactly what 12 percent payroll tax is on $10,000 worth of wages. So there are other changes that I believe are more important than the earnings test if we are going to be able to say to all beneficiaries, whether you retire today or in the future, that the promise we have on the table we are going to be able to make and we are going to be able to keep; secondly, to convert that system into one that brings a higher return and that individual owns it. It seems like the system we set up 60 years ago needs to be adjusted in more ways than just raising the earnings test.

I yield the floor.

Mr. KYL. Madam President, I rise as an original cosponsor of S. 1372, introduced by Senator JOHN MCCAIN and Majority Leader DOLE. It is time to lift the senior citizens earnings limitation off the backs of America's and Arizona's senior citizens. This legislation would gradually raise the limitation to $30,000 between 1996 and 2003, and would thereafter index for inflation.

During the 1992 Presidential campaign, President Clinton said that America must ''lift the Social Security earnings test limitation so that older Americans are able to help rebuild our economy and create a better future for us all.'' I could not agree more. Yet, despite the continued urging of many Members of Congress and millions of Americans, the President appears reluctant to make good on this campaign promise. So, it has fallen to Senator MCCAIN once again to pursue this issue, as he has for so long.

The Social Security earnings limitation [SSEL] was created during the Depression in order to move older workers our of the labor force and to create job opportunities for younger workers. Obviously, this situation no longer exists. Currently, under the SSEL, senior citizens aged 62 to 64 lose $1 in benefits for every $2 they earn over the $8,040 limit. Seniors aged 65 to 69 lose $1 in benefits for every $3 they earn over $11,160 annually. When combined with Federal and State taxes, a senior citizen earning just over $10,000 per year faces an effective marginal tax rate of 56 percent.

Moreover, when combined with the President's tax on Social Security benefits passed in 1993, a senior's marginal tax rate can reach 88 percent—twice the rate millionaires pay.

If enacted, this legislation would gradually repeal the earnings test and would allow seniors to continue to work to meet their needs without penalty.

Some lawmakers apparently forget that Social Security is not an insurance policy intended to offset some unforeseen future occurrence; rather, it is a pension with a fixed sum paid regularly to the retirees who made regular contributions throughout their working lives. Social Security is a planned savings program to supplement income during an individual's retirement years.

I believe no American should be discouraged from working. Such a policy violates the principles of self-reliance and personal responsibility on which America was founded. Regrettably, America's senior citizens are severely penalized for attempting to be financially independent. When senior citizens work to pay for the high cost of health care, pharmaceuticals, and housing, they are penalized like no other group in our society.

Senior citizens possess a wealth of experience and expertise acquired through decades of productivity in the workplace. Companies hiring seniors have noted their strong work ethic, punctuality, and flexibility. Their participation in the work force can add billions of dollars to our Natiion's economy. To remain competitive in the global marketplace, America needs for its senior citizens to be involved in the

economy: working, producing, and paying taxes to the Federal Government. A law which discourages this is not just bad law, it is wrong—and it hurts not only seniors but all Americans.

● Mr. HATFIELD. Madam President, this legislation would provide the flexibility and opportunity for older Americans to remain productive citizens of this Nation. I do not believe that older Americans should be penalized for their ability and willingness to remain active and productive members of society. The current earnings test arbitrarily mandates that a person retire at the age of 65 or face losing benefits. I do not believe that any person who desires to work should be dissuaded from pursuing the goal of employment due to the Tax Code. Finally, let us not forget the hazards our low income senior citizens face who do not possess a pension fund or retirement plan. Low-income seniors who are working out of necessity and face a severe tax penalty should not be penalized for no other reason than their age. For these reasons I support S. 1372 which would increase the earnings limit for seniors.

Unfortunately this legislation to correct that inequity was paid for by using discretionary Federal dollars. In the last 30 years we have seen discretionary Federal outlays, as a percentage of this country's gross national product, plummet from over 14 to 8 percent in 1994. Moving money from discretionary accounts to mandatory accounts is moving us in the wrong direction. I look forward to voting to correct this inequity in the Tax Code at a latter date when discretionary spending accounts are not used to offset the cost.●

Mr. GRAMS. Madam President, I want to commend the Senator from Arizona, Senator MCCAIN, for his leadership on this issue and ask unanimous consent to have my name added as a cosponsor to the Senior Citizens' Freedom to Work Act.

As a longtime proponent of an all-out repeal of the earnings limit, I am pleased the Senate is taking action on eliminating the additional burden President Clinton placed upon our seniors in his 1993 tax bill.

The current Social Security earnings test penalizes senior citizens by reducing their benefits if they continue working beyond retirement age and earn over $11,160 per year. For every $3 earned above that, they are forced to send $1 back to the Federal Government. That is unfair.

While repeated attempts have been made to repeal this seniors' penalty, or to at least substantially raise the earnings limit so that senior citizens can continue to contribute to society, the Clinton administration and the leaders of the previous Congress prevented any measures from passing. Today, we have an opportunity to prove that things have changed, and the Senate can do that by passing S. 1372 and providing some overdue tax relief to our seniors.

I wanted to share with my colleagues some of the letters I have received from Minnesota seniors on this issue.

One constituent of Pierz, MN, writes:

I cannot afford to start drawing my Social Security because of the earnings limit penalty. . . . If allowable earnings were increased to $30,000 as the Republican plan proposes, consider all the additional Social Security taxes that would be collected. Also consider all the additional income taxes that would be collected by the federal and state governments. We, as Seniors on this issue, need YOUR HELP.

A senior citizen from Eden Prairie shared a copy of a letter he sent to one of my colleagues. ''I wrote in 1993 regarding my concern over Social Security income being taxed,'' said the original letter. ''Not only was 50 percent of it then being taxed . . . but the Clinton budget plan increased the amount subjected to tax to 85%.'' The response this Senator received from my colleague was that he supported President Clinton's 1993 tax plan because it was ''fair.''

Madam President, I stand before you today because Clinton's assault on this Nation's senior citizens in 1993 was not fair. It is blatant discrimination against 700,000 older Americans. Furthermore, it discourages seniors from working, robbing businesses of skilled and experienced workers.

Today, we have an opportunity to restore fairness, and to deliver on the promise we made to seniors. Therefore, I urge my colleagues to support the Senior Citizens' Freedom to Work Act.

MIDDLE EAST PEACE EXTENSION

Mr. DOLE. Madam President, I have had a discussion with Senator DASCHLE regarding this.

I send an original bill to the desk on behalf of myself and the Senator from South Dakota, Senator DASCHLE, regarding the Middle East peace extension, and I ask unanimous consent that it be immediately considered, that the bill be considered read the third time, passed, and the motion to reconsider be laid upon the table.

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

So the bill (S. 1382) was passed, as follows:

S. 1382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) IN GENERAL.—Section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), as amended, is amended by striking ''November 1, 1995'' and inserting ''December 1, 1995''.

(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 193–236) prior to November 15, 1995, the written policy justification dated June 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, and the consultations associated with such policy justification, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.

Mr. DASCHLE. Madam President, I know we are in the middle of a debate. I will not take long. I commend the majority leader for his work and the leadership he has shown to bring us to this point. This legislation is critical and overdue, and we needed to pass it. I think it enjoys broad bipartisan support, and separating it from other issues relating to our agenda, I think, is important. In this case, we were able to accommodate all Senators. I appreciate the work done by the distinguished Senator from Massachusetts in accommodating these needs. Again, I appreciate the effort of the majority leader.

Mr. DOLE. Mr. President, I, in turn, would like to thank Senator HELMS for his cooperation. I know he has been trying and trying to get the State Department bill passed. He is working in good faith. We expect that a managers' amendment will be agreed on shortly and that the Senate will pass a modified version of his legislation. I am pleased that the chairman has lifted his objection, and that we can pass a clean MEPFA, Middle East peace facilitation extension—at least in the Senate. I hope it can be taken up in the House.

FIRST SESSION OF THE 104TH CONGRESS—STATISTICS

Mr. DOLE. Mr. President, this may be of interest to all my colleagues. We thought they might be interested in a statistical comparison from January through October 31 of the first session of the previous four Congresses to this current first session of the 104th Congress. The comparison contains the number of session hours, rollcall votes conducted, and measures passed in the Senate.

In the first session of the 104th Congress, the Senate has already conducted 558 rollcall votes, as compared to the first session of the last four Congresses, as follows: 100th Congress, 362 rollcall votes; 101st Congress, 279 rollcall votes; 102d Congress, 241 rollcall votes, 103d Congress, 342 votes.

In this first session alone, the Senate conducted 119 rollcall votes just on the budget resolution and reconciliation bill, and we are not finished yet.

Actual session hours for the first session are 2 minutes' shy of 1,548 hours, as compared to the 100th Congress, 1,026 hours; 101st Congress, 861 hours; 102d Congress, 1,014 hours; 103d Congress, 1,091 hours.

The final statistic I will share with my colleagues is the number of measures passed in the Senate in the first session of the various Congresses. In this first session, the Senate passed 259 legislative measures, as compared to 477 in the 100th Congress; 452 in the 101st Congress; 476 in the 102d Congress; 356 in the 103d Congress.

Needless to say, this session has been historical in many ways, including the number of rollcall votes conducted in one day.

The good news is that we have not passed as many legislative measures as

the previous four Congresses. However, in this Senator's opinion, we have passed more sweeping, fundamental reforms that will help bring this country back to financial soundness, putting the American people back in control of their own budgets, and getting big Government off the backs of the American people and our States and cities across the country.

I guess my one regret thus far—whether it is in this session or the next—is the failure to pass a balanced budget amendment. We failed by one vote. However, this Congress is far from over. Senators may yet get another opportunity to do what this Senator from Kansas believes is fundamental in controlling Government waste and spending—that is, passing a constitutional amendment calling for a balanced budget.

I think it is clear, if the time we have spent here and the number of rollcalls are any indication, that the Senate has worked very hard this year, and I commend all my colleagues on both sides of the aisle. I thought this might make rather interesting bedtime reading, if we ever get home in time.

SENIOR CITIZENS' FREEDOM TO WORK ACT

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Madam President, I want to pay tribute to Senator MCCAIN. There is not a more fierce advocate of his position in this area. He has been that way since I have known him. I have been on the other side of the issue all that time, also. We have serious disagreement. But I have a deep respect and admiration for him. He has been of great assistance to me in dealing with the tough issues on the Veterans' Affairs Committee, like POW's/MIA's. No one speaks with more credibility and integrity than this man from Arizona. So I want that clearly on record.

As to Senator KERREY, let me share with my colleagues here that I hope you heard every word that Senator KERREY was saying, because every word that he was saying is absolutely true with regard to Social Security.

Ladies and gentlemen, we cannot continue to leave out of serious total discussion something that is $360 billion a year, and we are not touching it. You do not dare touch it. That is why this will pass. Do not worry about the 60 votes on a point of order. Do not worry about 70 or 80; it will pass by 90 to 10.

Then we will deal with it. We will ''find the money.'' I hear that plea. I can understand that clearly.

This, however, in my mind, does not comport with the sense-of-the-Senate resolution which I voted for the other day, because it said if it can be done ''without injuring the long-term solvency of Social Security or negatively impacting the deficit.''

What this fundraising mechanism does is get the money short term, but in the long term it is absolutely devastating.

Now, this legislation, in my mind, does violate the Budget Act because it increases outlays in the Finance Committee area of jurisdiction during the 5-year budget windows of 1996 to 2000. I hope the Senate will sustain the point of order lying against it, but I know that will be a very remote possibility because I am sure the phone lines are jingling right now as to the fact that we are going to free up senior citizens to do what they need to do. We may well be doing that between these ages of 65 and 70, which has been apparently a very vigorous movement in America with regard to the earnings limit.

There is not a single person in this body that has been more dedicated to that issue in all my time of serving with him than the Senator from Arizona. I am sympathetic. The rest of the Senate is sympathetic. They will prove it in their votes. There is no question that Americans are living longer and are productive for a longer time. Our retirement policy should reflect that.

Let me caution my colleagues and the vapors of the day that it will pass in the Chamber as we vote this because I know how this game works. This is a $360 billion program, the biggest and largest of all handled by the Federal Government. Millions of Americans depend upon it. They should not, but they do. They never should have under the original Social Security law because it was never intended to be a pension. Regardless of what the senior groups may tell you, it is not a pension. It was an income supplement, very well put together, as the Senator from Nebraska has pointed out.

A majority of Americans who stand to retire some day—and almost all of us hope to and many of us in this line of work hope we get out before they throw us out—some day will be dependent upon it as a principal source of income. It is not right that it should be, but nevertheless it is.

It is very difficult to craft it now in these later years to be a principal source of income when it was never intended to be a principal source of income but only a supplemental source of income. That is all very well reflected.

I just want to review the bidding one more time as to what you put into this—as people complain vigorously about what they are getting out—and give some very critical comments about COLA's and why are the seniors being treated this way.

Let me put it in a very personal way. I am 64 years old. I have worked since I was 15. My first job was at the Cody Bakery in Cody, WY. I was the person who put that remarkable strawberry clear glop in the middle of the sweet roll. That was my job. You went tick, tick like that every morning. Somehow I have never eaten one of those again and never shall. That was my job.

Do you know what I put into Social Security that year? Five bucks—they really bit me that year, 1959. Worked at the B4 Ranch, did not put in a nickel. Off to college after high school, never put in a nickel. Never earned enough in the summer—there was an earnings limit—I never earned enough in the summer to contribute to Social Security. Went to the army. Never put in a nickel in those years. Got out. Went to finish law school. Started to practice law.

The first year I practiced law, I put in $59 that year. Then the old man put me to work and he kept the money. I remember how that worked in the partnership. I put a shingle up and it said ''SIMPSON and Father,'' and he never got over that—instead of ''SIMPSON and Son.'' But I had a dear, loving father and we worked together.

Then for all the years of my practice—I hope you will hear this—I never put in over $874 a year and neither did anyone else in America. Got it—874 bucks a year and self-employed, and no other person did either, because there was a cap. A person could make $100,000 a year and the cap was $12,000. A person could make $1 million and the cap was set at $12,000 or $8,900 or whatever it is, and you applied the percentage rate to that. I understand what Social Security is and what it was. So, earning the maximum, from the year 1959 until 1976, I never put in over $874 per year.

Then off to Washington: $1,200 a year, a real hit there, and then $1,500 a year, and then $2,000 a year and then $3,000 a year up in the late 1980's, and now I think I am up to 4,200 bucks a year.

Got it? If I retire at 65 I will receive $1,120 a month—got it? If I save my strength until the age of 70 and not take it until then, I will receive $1,540 a month. That is the way it is. That is Social Security. It cannot be sustained. There is no way it can be sustained.

When I was a freshman at the University of Wyoming, there were 16 people paying into this system and one person taking benefits; today there are three people paying into the system and one person taking benefits. In 20 years, there will be two people paying into the system, one taking benefits. Everybody in this Chamber knows that. Everybody who is a trustee of the Social Security Administration knows that.

So this continual ritual is played out that somehow we are doing something hideous to senior citizens. If you retired in 1960, you got all your money back in the first 2½ years, plus interest. Got it in 2½ years, every penny back.

In the 1970's, you got it all back in 3 years. Today, if you retired, you get it all back in 6½ years, plus interest.

That is where we are, a totally unsustainable system. Who is telling us that? The trustees. Are the trustees all Ronald Reagan Republicans or far-right legions? No. No, they are not. The trustees are Robert Rubin, Robert Reich, Donna Shalala, Shirley Chater—one Republican, one Democrat—telling us very simply, in the year 2013 there will not be sufficient revenue coming in under this pay-as-you-go plan, only

sufficient revenue to pay the benefits right there. At that point, in 2012, you have no choice but to cash in the bonds. You take the IOU's and you cash them in.

If this passes, the interest rate is going to be .25 percent more. It will be good for the short term. It will take care of this for the short term. That is the Senator's intent. But if this is long-term solvency, it does not meet that test. It does not, because when cash-in time comes, you will pay more because the interest rate is higher and you pay more.

I just think we should be very, very careful about making Social Security policy or any policy which may increase outlays without sufficient offsets on the floor of the Senate. I hope my colleagues will see this legislation, as I say, does not follow the sense-of-the-Senate vote last week. I know this is the intention.

I attribute not a single ulterior motive to the Senator from Arizona. He is a believer. He says to me often, ''Look, I will get a vote on that, regardless of where you are.'' And he will and he does. And that is his forte.

But, as chairman of the Social Security and Family Policy Subcommittee, we have not had a hearing on this. Win, lose, or draw, I will promise one on this. It makes no difference what happens here. I think we need to have a hearing on this to see that it comports with the long-term solvency of Social Security.

The measure before us acknowledges that increases in the earnings limit will itself worsen the solvency of Social Security, so the offsets are offered. First, of course, is the across-the-board cut in discretionary funding. I have now information—I want to submit it for the RECORD—I think it is very important that we have these figures, that this measure cannot be scored as producing the necessary savings. This is from Congressional Budget Office today.

This constitutes, thus, a violation of the Budget Act. This legislation, according to CBO, would add $9.9 billion to the budget deficit. That is a violation of the Budget Act.

I point out to my colleagues, even if this offset were to make up for the projected increases in the deficit, it would not resolve the question of solvency in the Social Security trust fund itself. I hope you hear that. That offset money is going to come from the general appropriated revenue. Thus, the balance sheet within Social Security would not be improved, and that is what we have to improve if we are to meet the sense-of-the-Senate recommendation. It would not be improved in any way.

Thus, I believe this offset would not meet the terms of that vote which we state we would only increase the earnings limit if—if—if the solvency of Social Security were not adversely affected.

And finally, another proposed offset—and here is the one—you do not have to listen to it, you do not have to do anything with it, pitch it, throw it over the side of the ship, but the other proposed offset is a devastating one. It increases the interest rates paid on obligations within the Social Security trust fund.

My understanding of this—and the Senator is here and can educate me—but my understanding of this measure is that it will provide a short-term infusion of capital. It will do that. I will agree to that. I will agree that that is the case. But over the long term and the long run, it would mean higher costs, higher outlays as the Social Security trust fund is drawn down. In fact, this legislation goes so far as to increase the interest paid, if I read it—and I need to know this—to increase the interest rate paid on such bonds that have already been issued, effectively reissuing them at higher rates of return, with potentially severe consequences for the long-term solvency of the trust fund.

I am told that the increase in interest rates would bring the overall long-term costs up toward—and, in some cases, even beyond—the so-called high-cost scenario which is used by the trustees of the Social Security system to measure the long-term solvency of Social Security. They tell us where the high-cost scenario is, the low-cost, the mid-cost.

In other words, then, such a measure would move the crash date for Social Security closer in time than it is under current policy. And remember where the crash date is today? It is 2029, crash date. Where was it in the early 1980's, after Senator MOYNIHAN and many others of our fine colleagues righted that listing program? It was 2063. Now it is 2029. In another year, I suppose they will move it up to 2025. Then crater day will be 2020.

So I have also asked the Social Security actuaries to review the consequences of the legislation and I expect to have that from them shortly. My mind is not closed on the subject. I will work with this fine friend and Senator, as chairman of the Social Security and Family Policy Subcommittee; be pleased to have the Senator as a witness, hold hearings. He has been a leader. I know he will continue to be, and indeed he will.

But in the present moment I do not believe that in any sense we should go forward. I think the Senate should sustain the budget point of order lying against this legislation. This is far too serious an issue to be dealt with in this way on the floor of the Senate. I hope the Senate will not take an action which could conceivably worsen the long-term outlook—I am talking about the long-term outlook for Social Security, or which will cause an increase in the outlays permitted to the Finance Committee under the terms of the Budget Act.

Madam President, I ask unanimous consent a letter dated today from June E. O'Neill of the Congressional Budget Office, citing the figures and where we are with regard to this additional $9.9 billion, be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 2, 1995.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In response to a request from your staff, the Congressional Budget Office (CBO) has prepared the attached cost estimate for S. 1372, the Senior Citizens' Freedom to Work Act. The estimate is based on the bill as introduced, with modifications that the sponsors expect to make prior to action on the Senator floor.

If you wish further details, we will be pleased to provide them. The CBO staff contacts are Wayne Boyington (Social Security), and Jeff Holland (interest on the public debt).

Sincerely,

JUNE E. O'NEILL,
Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1372.

2. Bill title: Senior Citizens' Freedom to Work Act.

3. Bill status: As introduced on October 31, 1995, with modifications that the sponsors expect to make prior to action on the Senate floor.

4. Bill purpose: As modified, S. 1372 would increase the exempt earnings amount for Social Security beneficiaries aged 65–69 in stages to reach $30,000 in 2002, change the interest rate paid on Treasury securities held in the old-age survivors insurance trust fund, and establish sequestration procedures to reduce discretionary spending.

5. Estimated cost to the Federal Government: S. 1372 would provide ad hoc increases in the exempt earnings limit for Social Security recipients who have reached the normal retirement age such that, by 2002, the exempt amount would be $30,000. Additional Social Security benefit payments would total $392 million in 1996 and $9.9 billion over the 1996–2002 period. The bill would attempt to compensate the old-age and survivors insurance (OASI) trust fund by increasing the interest payments made by the Treasury to the trust fund. Consequently, the bill is estimated to increase the off-budget surplus marginally and increase the on-budget deficit by $11.7 billion over the next seven years.

BUDGETARY IMPACT OF S. 1372 AS AMENDED

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Direct Spending							
Off-budget:							
Benefit payments:							
Estimated budget authority	392	920	1,241	1,490	1,753	1,988	2,138
Estimated outlays	392	920	1,241	1,490	1,753	1,988	2,138
Receipt of interest payments:							
Estimated budget authority	−908	−1,327	−1,498	−1,685	−1,882	−2,092	−2,318
Estimated outlays	−908	−1,327	−1,498	−1,685	−1,882	−2,092	−2,318
Net off-budget effects:							
Estimated budget authority	−516	−407	−257	−195	−129	−104	−180
Estimated outlays	−516	−407	−257	−195	−129	−104	−180
On-budget:							
Interest payments:							
Estimated budget authority	908	1,327	1,498	1,685	1,882	2,092	2,318
Estimated outlays	908	1,327	1,498	1,685	1,882	2,092	2,318
Total budget:							
Estimated budget authority	392	920	1,241	1,490	1,753	1,988	2,138
Estimated outlays	392	920	1,241	1,490	1,753	1,988	2,138
Authorizations of Appropriations							
On-budget:							
GAO report:							
Estimated authorizations of appropriations	[85]	[85]	0	0	0	0	0
Estimated outlays	[85]	[85]	0	0	0	0	0

[85] Less than $500,000.

6. Basis of estimate:

DIRECT SPENDING

Off-budget.—Under current law, Social Security recipients aged 65–69 can earn up to $11,640 in wages during 1996 before facing a reduction in benefits. The exempt amount is increased each year to reflect the growth in average wages in the economy. S. 1372 would increase the exempt amount faster than under current law during the 1996–2002 period. The exempt amount would be increased to $14,500 in 1996 and to $17,500 in 1997. The exempt amount would increase by $2,500 annually for the next five years and reach $30,000 by 2002. Indexing would resume in 2003. The changes would not apply to blind recipients, who currently face the same earnings limit as beneficiaries aged 65–69, nor would Social Security recipients under age 65 be affected.

S. 1372 would raise the interest rates paid on the assets of the OASI trust fund and would increase interest payments to the fund by $908 million in 1996 and $11.7 billion over the 1996–2002 period. These interest payments would be reflected in the off-budget accounts as receipts or negative outlays.

These two changes would increase the off-budget surplus by $516 million in 1996 and by $1.8 billion over the seven-year period.

On-budget.—The additional interest payments made by the Treasury would contribute on-budget direct spending equal to the amount of off-budget interest receipts. Thus, the on-budget deficit is increased by $908 million in 1996 and by $11.7 billion over the 1996–2002 period.

DISCRETIONARY SPENDING

S. 1372 would establish a process by which discretionary spending would be reduced in amounts equal to the additional Social Security benefit payments. Changes in outlays from future appropriations, however, are specifically excluded from the pay-as-you-go procedures of the Balanced Budget Act.

In addition, the bill requires the General Accounting Office to complete a report assessing the effects the increase in the exempt earnings limit has on the economy.

REVENUES

Increasing the amount of money that a Social Security beneficiary may earn without having his or her benefit reduced would increase benefits for some elderly people who are currently working and have their benefits partly or entirely withheld. Although the proposal would encourage additional paid work by some elderly people, such an increase in work would have a negligible effect on the amount of Social Security benefit payments. Because the cost estimate incorporates the economic assumptions in the budget resolution, the estimate does not reflect any change in economywide employment, compensation, or income and payroll tax collections. Even if those additional revenues were included in the cost estimate, however, they would offset less than 20 percent of the additional benefit payments, according to the Social Security Administration.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. The pay-as-you-go effects of the bill are as follows:

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	908	1,327	1,498
Change in receipts	[1]	[1]	[1]

[1] Not applicable.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Wayne Boyington (Social Security), and Jeff Holland (Interest on the public debt).

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. SIMPSON. Madam President, I then respectfully render a point of order under section 302(f) of the Budget Act, and state that in formal fashion. Madam President, the pending measure increases outlays in 1996 and over the 5-year period 1996 to 2000 in excess of the Finance Committee's allocation for these time periods. I therefore raise a point of order under section 302(f) of the Budget Act against this measure.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, in a minute I will seek to waive the budget point of order and would ask for the yeas and nays on that at the time.

I also ask unanimous consent we would have a vote on that, and that vote take place followed by a return to the Rockefeller pending sense-of-the-Senate amendment.

So I guess my parliamentary request is, I request unanimous consent to temporarily set aside the Rockefeller amendment.

The PRESIDING OFFICER. It does not require setting aside. Without objection, it is so ordered.

The Senator from Arizona.

Mr. MCCAIN. Madam President, on this issue I have, of course, the greatest respect and affection for the Senator from Wyoming. I deeply regret it is a Member of my party who is seeking to overturn what is clearly in the Contract With America, a mandate and promise that we made to the American people in 1994.

On the subject of hearings, the Senator from Wyoming wants to have a hearing. While he is sitting there maybe he wants to read the hearing that took place on March 1, 1995, and the hearing that took place on May 24, 1994, last year and the six other hearings that took place on this amendment and the seven or eight times I brought up this issue for debate and discussion on the floor of the Senate. So I am a little bit puzzled when the Senator from Wyoming says we have not had a hearing on it, when on March 1, 1995, I see numerous comments on the issue by the Senator from Wyoming.

I wonder, maybe I would ask him a question, if he remembers being at the hearing in March 1, 1995, and at the hearing on May 24, 1994?

So we have had hearings on this issue. The issue is clear. It is not complicated. Are we or are we not going to lift the earnings test on working Americans? The Senator from Wyoming makes a very compelling case that the Social Security system is in trouble. Then what would be a better cure, what would be a better cure, I ask the Senator from Wyoming, than to allow people to work and help try to return the Social Security system back to the supplemental income it was originally intended to be, because right now there is no incentive for them to be working?

Madam President, the CBO will certify that there will be actually more

money in the trust fund as a result of this. I appreciate the problem of the Senator from Wyoming with this money. I asked the Senator from Wyoming, as a member of the Finance Committee, how come it was that on Thursday and Friday of last week somehow they found $13 billion? They just found it because we had a problem. I do not know how they found it. Perhaps the Senator from Wyoming can tell me.

But now what we have is a proposal, which in the short term may cost some money, but the Senator from Wyoming cannot find a single expert—a single expert—who will not say that once this earnings test is lifted, there will be more revenues into the coffers in the form of taxes because more people will work.

The Senator from Wyoming knows that as well as I do because he was present at these hearings.

The fact is, if we adopted this, the interest paid on the Social Security fund would be increased by 2.25 percent each year for the next 7 years. But, also, this bill mandates that the GAO and the Comptroller General analyze the actual effect on the Treasury of raising this earnings test limit, and we know what the result will be.

We know what the result will be. The result will be that the Social Security trust fund that the Senator from Wyoming is deeply concerned about—and I share his concern—will be healthier as a result of lifting the earnings test. Everybody knows what the difference between static and dynamic budgeting is. Everybody knows that. If everybody believed in that, we would never cut the capital gains tax. We would never cut it if you believe in static scoring of taxation around here. But also everybody knows that, if you cut the capital gains tax, as we did the time seriously under President Kennedy, we increase revenues into our coffers.

As the Senator from Wyoming said, I have been working on this issue for a long time. But so have our colleagues in the House. They passed this bill three times. That is why they asked us to come over here. They want us to fulfill the Contract With America. They want us to fulfill the promise that we made to them in the election in 1994. Right there in the Contract With America was lift the earnings test.

I understand that the Senator from Wyoming did not sign the Contract With America. But I did. So did a lot of other Republicans, and the taxpayers of this country believe that we all did. That is why I am disturbed that the Senator from Wyoming would be the one to oppose this budget point of order.

Madam President, I ask to waive the budget point of order, and I ask for the yeas and nays.

The PRESIDING OFFICER. Will the Senator from Arizona restate the point of order, and was he seeking to waive?

Mr. McCAIN. I believe that the Senator from Wyoming made the point of order.

Mr. SIMPSON. I made the formal point of order, Madam President.

Mr. McCAIN. The Senator from Wyoming made the point of order.

Madam President, I move to waive the point of order, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there is sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Madam President, as a matter of procedure, I believe that point of order that I made was nondebatable but I was willing to go forward.

I ask unanimous consent that I be allowed 3 minutes to reply to the Senator from Arizona.

The PRESIDING OFFICER. The Chair informs the Senator the motion to waive is debatable.

Mr. SIMPSON. I am talking about the point of order. The point of order which I made is nondebatable, if I am not mistaken.

The PRESIDING OFFICER. Once a motion to waive is made, it is in order to debate it.

Mr. SIMPSON. At that time, let the record show that it was not debatable. And I knew that, and I was willing to let my friend go forward. But let me just respond here.

Of course, we are not into ridiculous questions to shoot back and forth at each other. Ridiculous or sarcastic questions serve no purpose here.

I was there. So was the Senator from Arizona. And I can tell you not once did we ever discuss the long-term effects of Social Security on raising the interest rates on securities obligated to the trust fund, or to go back and reissue new interest rates on those. That I can tell you never happened. So let us get that very clear.

We are not here to box each other around and whack on ourselves. We are here to try to get some reason on a very emotional issue which has a tremendous impact on Social Security. If anybody believes that by fiddling with the interest rates on the obligations of Social Security to get a short-term result to get something that someone is pledged to get, then I want to know where the rest of them are going to be too when we do another part of the Contract With America which is to not back, to expose only 50 percent of Social Security benefits to tax instead of 85 percent, and we will do that too. These are bills that nobody will vote against. That is part of the reason they come up. You do not dare vote against this. But I cannot wait for that vote because you know where the money is going to come from when we expose only 50 percent of this money, this benefit to tax instead of 85 percent. It comes from part A, the health insurance trust fund. I hope everybody is ready for that one. That will be contract day at the old ranch.

So, I was there. I remember what we did. I am fully aware that we had hearings. I am fully aware of what they were about. And I am fully aware of what this one is about. It was not anything that we talked about or had a single word about in a hearing, especially with regard to the interest rate on the bonds. We need to ensure that we do not in doing this take actions that injure the long-term solvency of the U.S. Social Security system, and increasing these interest rates could have consequences of which we have no ability to determine. And we have not had hearings on that issue; period.

I have only chaired this subcommittee for several months. If all these things took place before, more power to them. I will get back and rattle around in them too. We will all look at them once again. We cannot change too much, and then we will go ahead and pass it.

And then people between 18 and 45, when they are my age, will look around and blink like a frog in a hailstorm, and they will deserve everything they get.

The PRESIDING OFFICER. The question is on the motion to waive.

Mr. McCAIN. Madam President, I want to say to the Senator from Wyoming his point is well made. I apologize for saying that issue was a particular part of this issue, as far as the long-term bonds are concerned, that was brought up. It was not brought up, and he is entirely correct. And I apologize for insinuating that aspect of this legislation had been discussed in the past.

The point is that this entire issue is very well known. And the point is that the Senator from Wyoming knows, as well as I do, that witness after witness testified that, if we lift the earnings test, it will result in a net increase in the Social Security trust fund because seniors will work, and seniors will pay more taxes. That is why we have in this bill that in 2 years the GAO and the Comptroller General must report as to the actual effects of lifting the earnings test, which, as I say to any outside observer, will be an increase in funding.

So, if I intimated to the Senator from Wyoming that we had hearings on the actual aspect of the funding, I apologize, and I understand how strongly he feels about the Social Security issue. We share that combative spirit, and I hope that once this amendment is passed that we can work together in the future to solve the larger problem which the Senator from Wyoming articulates in a far more enlightening fashion than anyone I know; and, that is, the problems that face Social Security in general. And our obligation is not only to represent generations of retirees but future generations of Americans.

Mr. SIMPSON. Madam President, I deeply appreciate those comments of my friend, and they are sincere. I take them that way. I am just glad to set that record straight. The Senator from Arizona and I almost have a signal on this issue. We will sit across the room and suddenly someone will mention

something, and we just kind of go into a rigor and a catatonic state. Then we usually meet, he looking this way, and me looking this way. And I have found in life a very interesting thing; that oftentimes I see something in someone else that might irritate me. And it is most always something I do myself, that I do not handle very well in my own daily doings. With John MCCAIN of Arizona, I will just say it takes one to know one. And we do. I commend my friend, and he is going to get a nice vote here. And he is going to be tickled to death. There you are.

Thank you, Madam President.

Mr. McCAIN. Madam President, I thank my friend from Wyoming. He adds to this body in more ways than I am able to describe, especially not the least of which was his brief recitation of his history of his various forms of employment.

I yield the floor, Madam President.

Mr. LEVIN. Mr. President, I support raising the Social Security earnings limit to allow Social Security beneficiaries now subject to the limit to earn more income. However, I cannot support the motion to waive the budget point of order on the legislation before the Senate today. Raising the earnings limit will draw increased payments out of the Social Security trust fund. Any measure to raise the earnings limit must pay for that change. The legislation before us does not adequately assure that this will be paid for in a manner which will not increase the Federal deficit or in a manner which avoids further cuts in critical education and health programs, including programs for seniors. I am hopeful that a better manner of paying for this change will be designed and that we will raise the Social Security earnings limit. This one falls short.

The PRESIDING OFFICER. The question is on the motion by the Senator from Arizona to waive the point of order. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Indiana [Mr. LUGAR], and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I further announce that if present and voting, the Senator from South Carolina [Mr. THURMOND], would vote ''yea.''

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote ''nay.''

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The yeas and nays resulted—yeas 53, nays 42, as follows:

[Rollcall Vote No. 562 Leg.]

YEAS—53

Abraham	Baucus	Biden
Ashcroft	Bennett	Brown
Bryan	Harkin	Murkowski
Burns	Hatch	Nickles
Coats	Heflin	Pressler
Coverdell	Helms	Reid
Craig	Hollings	Roth
D'Amato	Hutchison	Santorum
DeWine	Inhofe	Shelby
Dole	Jeffords	Simon
Faircloth	Kempthorne	Smith
Ford	Kerry	Snowe
Frist	Kyl	Specter
Graham	Lott	Stevens
Gramm	Mack	Thomas
Grams	McCain	Thompson
Grassley	McConnell	Warner
Gregg	Moseley-Braun	

NAYS—42

Akaka	Domenici	Leahy
Bingaman	Dorgan	Levin
Bond	Exon	Lieberman
Boxer	Feingold	Mikulski
Breaux	Feinstein	Moynihan
Bumpers	Glenn	Murray
Byrd	Gorton	Nunn
Campbell	Inouye	Pell
Chafee	Johnston	Pryor
Cochran	Kassebaum	Robb
Cohen	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kohl	Simpson
Dodd	Lautenberg	Wellstone

NOT VOTING—4

Bradley	Lugar
Hatfield	Thurmond

The PRESIDING OFFICER (Mr. SANTORUM). On this vote, the ayes are 53, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is well taken, and the bill is committed to the Finance Committee.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, the Senate has spoken at this time. I want the Senate to know that this is an important issue for seniors of America. They are tired of this onerous, unfair, and outrageous tax.

I am sorry my friends across the aisle did not vote for it. They are going to have a chance to vote for it next week, the week after and the week after, and seniors will let their views be known, and others across America, as to how outrageous this vote was. I hope they understand that I am not going to quit on this issue until it is done, because the seniors of America deserve it.

I yield the floor.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

POSITION ON VOTE

● Mr. THURMOND. Mr. President, I was necessarily absent from the Senate today, Thursday, November 2, 1995. During my service in the Senate, I have always taken my duty to represent the people of South Carolina seriously and have been absent from Senate business only when necessary.

With regard to the vote on the motion to waive the Budget Act on S. 1372, the Senior Citizens Freedom to Work Act, I am a strong supporter of increasing the earnings test and would have voted in favor of waiving the Budget Act.●

Mr. ROCKEFELLER. Mr. President, I understand and appreciate the concerns of senior citizens about the Social Security earnings limit.

In the past, I have supported increasing the earnings limit for seniors who need to work, but it must be paid for responsibly. Today's proposal raised some questions for me. I was troubled by the effort to further cut domestic discretionary programs.

While cutting domestic discretionary programs sounds simple, cuts of $9 billion could hurt West Virginia families and even seniors. Many of these programs that would be reduced under this proposal have already been cut severely. Plus the list includes fundamental programs for seniors themselves, like senior nutrition programs and the Low-Income Energy Assistance Program which helps seniors in West Virginia and other northern regions keep the heat on during the winter months. Cutting these programs could easily hurt the seniors that we say we intend to help by raising the earnings limit.

Also, as Senator SIMPSON mentioned in his remarks, it is also difficult to determine what the effect might be of changing interest payments to the Social Security trust fund. Senator MCCAIN acknowledged that this aspect of his legislation has not been fully studied, nor was it the focus during previous hearings on the overall issue. When it comes to the long-term solvency of the Social Security trust funds, I firmly believe we must be thoughtful and cautious. Seniors depend upon Social Security, and I want to ensure that they can continue to do so for generations.

I voted for the point of order against Senator MCCAIN's legislation because I believe that we must be cautious, consistent, and careful whenever we deal with the Social Security trust fund. Each and every aspect of this proposal should be fully considered by the Senate Finance Committee. We should not rush to judgment. We should not bend the budget rules when it come to Social Security.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me first say I hope the Senator from Arizona will not be discouraged.

I know a few votes would have made a difference, and I think if we can find another way to pay for it, that will pick up additional votes, at least on this side, perhaps on the other side.

I want to make one announcement and a statement.

PARTIAL-BIRTH ABORTIONS

Mr. DOLE. Mr. President, I wish to commend the House of Representatives, which yesterday passed a ban on

the use of partial birth abortions by a margin of 288 to 139.

There are many issues which divide reasonable people on both sides of the abortion debate. But use of this procedure, which occurs late in the pregnancy—even in the ninth month—is horrifying to contemplate and completely indefensible.

I believe that people of good will, whatever their views on abortion generally, will agree that it is our obligation to act to defend the defenseless in circumstances where we can. This is one of those circumstances.

Mr. President, earlier this year, Senator SMITH introduced a similar ban on the use of partial birth abortions. It was placed on the Senate calendar under Rule XIV. It is my intention to schedule the House-passed bill for floor consideration at the earliest possible opportunity. I trust the Senate will pass the bill quickly and send it to the President for his signature.

I have little doubt that certainly the President will sign a bill to end this kind of procedure, this kind of practice.

Mr. BYRD. Mr. President, may we have order in the Senate so we can hear what the majority leader is saying? There are too many conversations going on.

The PRESIDING OFFICER. The Senator is correct. The Senate will please come to order. The majority leader.

Mr. DOLE. Mr. President, we can no longer ignore the fact that teenagers across America are now resorting to illegal drugs in ever-increasing numbers.

The most recent national household survey reveals that marijuana use among teenagers has nearly doubled since 1992, after 13 years of decline. It also reveals that attitudes toward illegal drug use are softening; fewer and fewer teenagers now believe that using illegal drugs is an activity that should be avoided.

Earlier today, the National Parents' Resource Institute for Drug Education [PRIDE], released its own annual survey of drug use by junior and senior high school students. According to the survey, not only are more and more high school students smoking marijuana, they are using it more frequently: one-third of high schools seniors smoked marijuana in the past year and more than 20 percent now smoke it on a monthly basis. The survey also shows that teenage use of hard drugs—cocaine and hallucinogens—is also on the rise. Since 1991, there has been a 36-percent increase in cocaine use by students in grades 9 through 12 and use of hallucinogens has risen a staggering 75 percent since 1988.

Tomorrow, we will probably hear some more disturbing news. If preliminary reports are correct, the Dawn Survey, conducted by the Department of Health and Human Services, will show that emergency-room admissions for drug overdoses are on the increase.

Although then-Governor Clinton boasted during the 1992 Democratic Convention that President Bush ''hasn't fought a real war on crime and drugs * * * [and] I will,'' his record in office has not matched his campaign rhetoric. Through neglect and mismanagement, bad policy and misplaced priorities, the Clinton administration has transformed the war on drugs into a full-scale retreat.

Drug interdiction is down. Drug prosecutions are down. The General Accounting Office tells us that the antidrug effort in the source countries is badly mismanaged. And, perhaps most importantly, the moral bully pulpit has been abandoned.

Regrettably, the administration's most prominent voice on this issue has been a surgeon general who believes the best way to fight illegal drugs is to legalize them.

Obviously, we cannot continue down this path. Failing to control illegal drug use has real-life consequences that affect not only the user but the rest of society. Drugs and violent crime, for example, are inextricably linked. Forty-one percent of all reported AIDS cases are drug-related. Drugs are a major contributor to child abuse. And past studies show that heavy drug-users are twice as likely to be high school drop-outs than those who do not use drugs.

So, Mr. President, we must ask ourselves: What can we do to jump-start the fight against drugs?

For starters, we must restore the stigma associated with illegal drug use.

Those of us in positions of authority—whether it is parents or teachers, religious leaders or those who hold elective office—must be willing to repeat over and over again the simple message that using drugs is wrong and that drugs can and do kill.

This message has worked before. It was called the Just Say No campaign. Illegal drug use declined dramatically throughout the 1980's and early 1990's in large part because our culture stigmatized drugs and shamed those who used them. This message got through to millions of teenagers and saved thousands of lives in the process.

Perhaps one of the best kept secrets is that, between 1980 and 1992, overall drug use declined by 50 percent. Cocaine use dropped even further—by more than 70 percent. These successes were the result of many factors, but perhaps the most important factor was the steady antidrug message that came out of Washington and through the media.

As Jim Burke, chairman of the Partnership for Drug-Free America, has explained: ''Looking back at the progress made in changing attitudes in the 80's, it is very clear that the media played a very important role in shaping children's antidrug attitudes. We need them now to again increase their role in that regard.'' I agree.

So, Mr. President, I rise today to do my own part, to help raise public awareness about the disturbing increases in teenage drug use. We must say ''enough is enough.'' Our children must understand that using drugs is not only stupid but life-threatening. This is a message that can never be repeated too often.

LEGISLATION ON LATE-TERM ABORTIONS

Mrs. BOXER. Mr. President, I want to follow up on the remarks of the majority leader in which he stated that next week we will be taking up the ban on late-term abortions. The point I want to make, because he referred to President Clinton, is in a press release that was sent out by the White House. It is true that the House did vote yesterday to ban late-term abortions. Unfortunately, they did not allow any amendments to the bill. And the bill makes no exceptions for life of the mother, for serious health risks to the mother, or for cases of severe fetal abnormalities, such cases where there is such serious abnormalities that organs are outside of the body.

The House did not want to have any reasonable amendments on that bill. It is a very radical bill, and the President restated his long-held belief that though he does not want to see abortions, he wants them to be legal and rare. But the fact is, in a late-term abortion, you must consider the life and the health of the mother.

I feel it is very important that when this bill comes to the U.S. Senate, we have an opportunity to know what we are doing. For the first time, the House has made abortion a criminal act. They would put a doctor in jail, even if the doctor acted to save the life of a woman. Now, surely, we need to study that.

Surely, we should have some hearings in our Judiciary Committee, where we can bring forward the doctors, where we can bring forward the women who have gone through this hellish experience. The House makes up a whole new term for these kinds of abortions. It is not a scientific term. They made it up. I, for one, was not elected to be a doctor. I have great respect for doctors. Many doctors oppose what the House did. I certainly was not elected to be God. I do not know how Senators feel, but, for a moment, I would like them to think about if their loving wife came home to them and said: We have a horrific situation. If I carry this pregnancy to term, I am going to die. I really think there are colleagues on the floor here that never think about this in personal terms.

In the House, they did not allow people to vote a moderate approach to this issue. I think that is a grave injustice to women in this country, to families in this country, to doctors in this country, to common sense in this country. Frankly, it was a grave injustice to the Members of the House, who had no opportunity to vote a moderate vote.

Life of the mother. Oh, they say in that bill a doctor could use it as a defense. He could go in front of a jury and

beg for forgiveness and say, ''I did it to preserve or protect the life of the mother.'' But, my goodness, what are we doing here? Why are we so radical when we could craft a bill that would be sensible? I think it is all about ideology, about contracts with America; it is not about real people.

I say to my friends in the U.S. Senate, if your wife came home to you and you were facing losing her, you would say to that doctor, ''Save my loving wife.'' You would not want that doctor to be hauled off to jail.

I hope this Senate can take a more moderate course. I will stand here and fight for that moderate course for as long as it takes, because I think this is a very important issue to real people.

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. THOMAS. Mr. President, I ask unanimous consent that now there be a period for the transaction of routine morning business, with Senators permitted to speak therein for up to 5 minutes each.

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

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

THE RECONCILIATION BILL

Mr. KENNEDY. Mr. President, in the reconciliation bill, the Republicans have extended an open hand to powerful special interests and the back of their hand to the American people. Senior citizens, students, children, and working families will suffer so that the privileged can profit.

Republicans are engaged in an unseemly scheme to hide what they are doing from the American people. Their proposals are too harsh and too extreme. They cannot stand the light of day—and they know it.

The fundamental injustice of the Republican plan is plain. Mr. President, $270 billion in Medicare cuts that hurt senior citizens are being used to pay for $245 billion in tax cuts that help the wealthiest individuals and corporations in America.

The Republican bills are also loaded with sweetheart deals for special interests, whose money and clout are being used behind closed doors to subvert the public interest and obtain special favors. The sections of the legislation dealing with health care are packed with payola for the powerful.

The dishonor roll of those who will benefit from the giveaways in this Republican plan reads like a ''Who's Who'' of special interests in the health care industry.

The pharmaceutical industry—the most profitable industry in America—benefits lavishly from the Republican program. The House bill repeals the requirement that the pharmaceutical industry must give discounts to Medicaid nursing home patients and to public hospitals and other institutions serving the poor. The total cost to the taxpayers from these giveaways is $1.2 billion a year—close to $10 billion over the life of the legislation.

The Democrats in the Finance Committee forced the elimination of this giveaway in the Senate bill, and the amendment, which I intend to offer as instructions to the conference, is designed to ensure that it is not included in the conference report.

The American Medical Association also receives lavish benefits in the Republican bill in return for its support of these excessive cuts in Medicare. The weakening of the physicians antifraud and physicians conflict-of-interest rules in the Republican program has been estimated by the Congressional Budget Office to cost taxpayers $1.5 billion over the next 7 years.

Even more harmful to the Medicare patients is the elimination of restrictions on billing, so that doctors will be able to charge more than Medicare will pay, and collect the difference from senior citizens.

Under current law, such billing is prohibited for Medicare patients enrolling in private HMOs or competitive medical plans—the only private plans currently allowed to contract to provide Medicare benefits. The Republican Senate bill eliminates this prohibition for HMOs, and for every private plan. When the plan is fully implemented, senior citizens could pay as much as $5 billion more for medical care a year as a result of the elimination of these protections.

We had this as an amendment during the time of reconciliation. We received some assurance that the billing provisions had been addressed, the double-billing provisions would be addressed, then under review of the language of the reconciliation we find that no place in those over-1,000 pages could you find the kinds of protections that exist there under the Social Security Act.

Our amendment directs the conferees to restore the limits on such billing and maintain strong protections against fraud and abuse.

Another extreme provision of the House bill is its elimination of all the Federal nursing home standards, a payoff to unscrupulous nursing home operators who seek to profit from the misery of senior citizens and the disabled.

The Senate amendment adopted last Friday pretends to restore nursing home standards to the Senate bill but, in fact, it leaves a loophole wide enough to permit continued abuse of tens of thousands of patients.

It allows State waivers that could weaken Federal standards and avoid Federal oversight and enforcement. Weakening current Federal standards is a giveaway to unscrupulous nursing home operators. This amendment instructs the conferees to maintain the current strict standards.

One of the cruel aspects of the Republican proposal is its failure to protect nursing home patients and their relatives from financial abuse.

Mr. REID. Would the Senator yield for a question?

Mr. KENNEDY. Sure.

Mr. REID. Would my friend——

The PRESIDING OFFICER. The time is expired.

Mr. REID. I ask unanimous consent that I be allowed to speak as in morning business for 5 minutes.

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

Mr. REID. And I extend my time to the Senator from Massachusetts.

How would it work around the country if we had 50 different sets of standards, I say to the Senator from Massachusetts, for how you would manage the standards set for rest homes?

Mr. KENNEDY. The Senator has put his finger on something which is basic to the Republican proposal because you would have 50 different standards for nursing homes in the 50 different States, as you probably would with regard to children and children's coverage, as well as the disabled in various States.

Rather than having a national commitment to our seniors that is implicit in the Medicare concept, Medicare is basically an understanding that as seniors get older their incomes go down and their health needs go up. That happens to seniors all over this country. Medicare recognizes that. What we are doing with the nursing home standards is carving out an area where the Republicans fail to give current protections to those senior citizens, but instead, gives protections to the nursing homes—they will be protected.

For example, in my State of Massachusetts it costs $39,000 for nursing home care. If a senior qualifies for Medicaid—which effectively means they have no real further assets other than perhaps a very marginal protection for the spouse which was addressed under a different provision—and that individual is in a nursing home, the Medicaid payment is a payment in full.

Effectively under the Republican program, States may provide only about two-thirds of the Medicaid money to nursing homes. The Republicans are cutting out $180 billion out of Medicaid. We now spend $90 billion a year on Medicaid. They are cutting out $180 billion out of the program, which is the equivalent of 2 years of the 7, giving that much less money to the States.

In my State I can understand the State saying we can only pay, instead of the $39,000, maybe $25,000. What this legislation will say is, all right, the nursing home can try to sue that family for additional money—not just the $39,000 but maybe $42,000 or $45,000—and at the same time, the Republicans refuse to put in place the nursing home standards. The kind of standards which were developed in order to address the kinds of abuses that were so evidenced in the hearings which our good friend from Arkansas, Senator PRYOR, and others were involved in, in a bipartisan way, in 1987.

Mr. REID. I ask one additional question of my friend.

Is the Senator aware that in 1980, just a few years ago, 40 percent of the people who were in convalescent homes were restrained—that is, strapped down with some type of narcotic, or they could not move; is the Senator aware of that?

Mr. KENNEDY. I am aware that it was a practice that was used far more often than was necessary. Both the physical restraints and also the sedation, as well as the failure of adequate personal hygiene care for seniors.

Mr. REID. Is the Senator aware since the national standards were established, that figure has dropped dramatically?

Mr. KENNEDY. That is my understanding.

The indications are that since the enactment of the 1987 standards, the overall health evaluation of seniors—basically we are talking about parents and grandparents—in nursing homes has substantially—substantially—improved.

That has been referenced during the course of this debate. It has never really been challenged.

I think not only have the improvements been affirmed by various studies, but one thing that you cannot evaluate in terms of dollars and cents is relieving the families of the anxiety and the concern that they have for their parents. When they visit and see how, in many instances, the parents were treated prior to the 1987 provisions it gave them anxieties. At the same time they had those anxieties they were out working, trying to provide for their children all the time while also worried about their parents.

They had some relief from that type of anxiety as a result of those standards, and under the Republican bill those standards have been altered or changed.

Mr. REID. Mr. President, I ask unanimous consent because of my interruption that the Senator from Massachusetts be allowed to finish his statement.

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

Mr. KENNEDY. I ask unanimous consent for 4 additional minutes.

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

Mr. KENNEDY. Mr. President, the Republican bill also wipes out the protections that have been in Medicaid since 1965 that prevent States from forcing adult children to pay the cost of their parents' nursing home bill.

The Republican bill even lets States put liens on the houses of nursing home patients, even if the spouse or children are still living there. Obviously, Republican family values stop at the nursing home door.

The amendment instruction which I will offer with others will eliminate these indefensible proposals from the bill.

What a travesty it is for the Republicans to call this a reconciliation bill. The only reconciliation involved is between the Republican majority and their special interest lobbyist friends for whom this bill has become one large feeding trough.

Who knows what additional giveaways will be cooked up behind the closed doors of the conference committee? Adoption of the sense of the Senate which I will propose at the appropriate time is a needed step to expose those sweetheart deals and eliminate them from the bill. I will urge the Senate to adopt it. I wish we had the opportunity to debate this over the course of the week, but we have effectively been denied that opportunity.

Mr. President, finally, last week, when I raised the issue of balance billing on the Senate floor, the chairman of the Budget Committee contended that the Senate finance bill preserved this protection in Medicare.

Let me cite the facts. Section 1876 of the Social Security Act clearly prohibits physicians who are part of HMOs or competitive medical plan networks from making any additional charge to enrollees of that organization. This is in the first part of an instruction I will offer.

It further prohibits charges beyond what Medicare would normally allow even for services provided by physicians not part of the network.

What does the Republican bill do? First, it establishes a whole new category of private plans that can contract with Medicare, the Medicare Choice plans. The limitations in section 1876 do not apply to these new plans. Then it repeals section 1876 effective January 1, 1997, so the existing limitations do not apply to HMOs currently contracting with Medicare.

You can read all 65 pages of the subtitle of the bill establishing Medicare Choice. In fact, you can read all 2,000 pages of the Senate bill, and you will not find the applications that are there in section 1876(j).

You will not find them because they are not there. In fact, just to make the intentions of the authors of this program crystal clear, section 189fC(d)(2)(B) of the new Medicare Choice program requires that enrollees be notified of their ''liability for payment amounts billed in excess of the plan's fee schedule.''

The Republicans trumpeted their achievement when they passed this bill, but they seem reluctant to go to conference. Do they want to divert public attention from the contents of the bill? What do they want to hide? I can understand their concern. There is much to be ashamed of in it and nothing to be proud of. It is a cruel and unfair bill, it hurts families, senior citizens, and helps only the wealthy and the powerful.

I hope we will have an opportunity to debate this sense of the Senate at an appropriate time so the Senate itself can make a judgment as to whether to endorse and support this sense of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

THE RECONCILIATION BILL

Mr. WELLSTONE. Mr. President, first of all, let me just join with the Senator from Massachusetts, and I am sure the Senator from Arkansas. We are ready for the debate. We have some amendments with some instructions to conferees. I do not really understand what the majority party is afraid of. I think we ought to have the debate now.

The more I analyze what happened with this reconciliation bill, the more I begin to think about the importance of reform and making this a political process that is responsive to people in the country. I do not mean just the people who are the heavy hitters and the players and the big givers.

It is pretty amazing. The pharmaceutical companies come out great, the doctors come out great—though I want to make it clear there are many doctors in my State, I am very proud to say, who do not go along at all with these draconian cuts in health care. They know the pain it is going to inflict across a broad segment of our population in Minnesota.

But at the same time as we have some special interests that come out of this just doing great, we have a whole lot of people that get hurt. I just want to focus on one other part of this amendment, the language that will read that provisions providing greater or lesser Medicaid spending in States based upon the votes needed for the passage of legislation rather than the needs of the people of those States, that, in fact, this will be eliminated.

I, again, refer to the dark of the night, back-room deal sometime between 6 p.m. and 9 p.m. on Friday evening, where there was wheeling and dealing and Senators in Republican caucus did something like leverage votes for money for States, some kind of process like that. Because all of a sudden we saw a dramatic change in the formula of this amendment. My State of Minnesota wound up with $520 million less between now and 2002 for medical assistance recipients.

In my State of Minnesota, and in every State across the land, when we talk about medical assistance we are talking about senior citizens. Two-thirds of the senior citizens in nursing homes in Minnesota rely on medical assistance. And I would far prefer we get serious about real health care reform, and having had a dad with Parkinson's and a mother who struggled with that as well, I am all for home-based care. I want people to be able to live at home in as near normal circumstances as possible, with dignity. But sometimes, for people, it happens. It happened with my parents, and we did everything we could to keep them in their homes, and we did for many

years. The nursing home at the end of their lives became a home away from home. For God's sake, who makes up those cuts?

In my State of Minnesota we are talking about 300,000 children; 300,000 children. Medical assistance is an important safety net to make sure that children receive some health care. As a former teacher, I want to make it clear to my colleagues: students—young students, children—do not do well in school when they go to school not having had adequate health care. If a child has an abscessed tooth because that child cannot afford dental care, that child is not likely to do well in his or her elementary school class.

For people with disabilities, this is an unbelievably important issue. It is a life or death issue. Because, for families who want to keep their children at home as opposed to institutionalization, the medical assistance payments are critically important. And, for adults who want to get up in the morning and be able to go to work and own their own small business, they need medical assistance for a personal attendant. That is a life with dignity. That is what medical assistance means to those people. So when we are talking about a formula and we are talking about statistics and we are talking about what happened to the State of Minnesota in the dark of night, Friday evening, we are talking about people's lives.

What this part of the amendment is going to say, when we give our instructions to conferees, is that we should undo, reverse those provisions which provided medical assistance spending to States based upon the votes needed for the passage of the legislation rather than the needs of the people in those States. I would like to debate that today, I say to my colleague from Arkansas. I am ready for that debate. I am ready for people to tell me who made that decision between 6 p.m. and 9 p.m. What committee met in public? Who voted? Who is held accountable?

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent I have 30 more seconds.

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

Mr. WELLSTONE. What was the justification? I would like to hear a careful policy justification. But, Mr. President, I will not. Because there is none.

I know the pain this inflicts on citizens in my State and I intend to fight this all the way until we change this formula. And above and beyond that, I intend to be a part of an effort in this Senate to make sure that we do deficit reduction but we do it on the basis of a standard of fairness, not on the basis of responding to the people who give the money and who have the clout and have their way and are not asked to tighten their belts. But it is the children, the elderly, people with disabilities, the working families, the people who live in the communities.

We are going to change that one way or another. We are going to change that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

GATT AND PRESCRIPTION DRUGS

Mr. PRYOR. Mr. President, on three previous occasions I have come to the floor of the Senate to raise the issue that I wish to discuss today. Each time, I have laid out the facts of a particular problem—in fact, a loophole—which Congress created and which only Congress can fix.

Left uncorrected, that problem will cost the American consumer and the American taxpayer several billion dollars and will unjustly enrich a few pharmaceutical companies enjoying undeserved and unintended special treatment under the GATT treaty.

Over the next several days I intend to spend a few minutes to highlight a different and disturbing aspect of this GATT loophole. Let me give a brief overview, if I might, for those who may not be quite so familiar with the issue, despite the recent attention it has received in the media.

There is a very simple way to describe this issue. It is like a person walking down the sidewalk and finding a wallet. After picking it up, he learns it contains $100 and the rightful owner's name. His question is, ''Do I keep the money or do I return it to its rightful owner?''

In this case, this money clearly belongs to the American taxpayer and American consumer. But the drug companies are saying ''OK, you made a mistake. But we want the money and we are going to try to keep it. Don't confuse us with the facts.'' That is what this issue is about.

I know that these companies have hired a swarm of lobbyists to come to Capitol Hill. I know today, in fact, that they are distorting the truth and they are deceiving the public. This issue is all about whether a handful of drug companies will be honest—whether they will give the figurative wallet back to its rightful owner, the American consumer and the American taxpayer.

Any fair-minded person will tell you that these drug companies are on the wrong side of this issue. But with billions of dollars at stake, how do you think they have responded? With a multimillion-dollar lobbying campaign. They are trying to pocket this undeserved profit.

It is difficult to believe the lengths they have gone to. They have distorted the facts. They are deceiving the public, and their unvarnished greed is on display for all to see.

The only argument they can come up with is, ''Yes, we knew that a mistake was made. Yes, we haven't done a thing to deserve these billions of dollars. And yes, we know you are trying to correct this mistake. But, hey, this fell into our laps. We're going to do everything we possibly can to keep these dollars.''

Mr. President, let me weave together the three pieces of this issue. It is pretty simple. I think they lead to a simple conclusion. We need to fix this problem, and we will let our colleagues judge for themselves as to whether they agree.

The first piece is the loophole itself. When Congress voted on the GATT treaty, we did two things. First, we extended all patents from 17 years to 20 years. Second, we stated in that treaty that a generic company in any industry—not just the drug industry—could market their products on the 17-year expiration date if they had already made a substantial investment and were willing to pay a royalty.

Why did we do this? We did a favor to patent holders, but in doing so, moved the goalposts on generic companies of all kinds. So we thought this was a fair deal and a good balance of commercial interests. It made sense and it makes sense today. Everyone bought onto it—the automotive companies, the computer companies, the high-tech companies, and yes, the drug companies.

Everyone said this is a fair way to solve this problem. We believed it to be fair. And we believed when we voted for the treaty that these provisions covered every person and every product, every company and every industry in the entire country. Everyone had to play by the same set of rules.

Let me emphasize: everyone includes our U.S. Trade Representative, Mickey Kantor. He has attested time and again that this was the case. Letters from Ambassador Kantor to myself and my colleague, Senator CHAFEE, are part of the RECORD.

But Mr. President, we were wrong. We made a mistake and accidentally left the prescription drug industry out of the picture. Today, they get the patent extension of 3 additional years. But the GATT loophole shields them from any generic competition whatsoever; in other words, a free ride for an additional 3 years with no competition—a monopoly, and exorbitant prices. The rest of us are playing by one set of rules while these few companies enjoy special treatment because of our mistake.

That is part 1, Mr. President, and that is the loophole. Part 2 is the windfall.

Mr. President, may I ask if there is additional time?

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

Mr. PRYOR. Mr. President, I ask unanimous consent—I see no other Senator seeking recognition—that my time may be extended for 5 additional minutes.

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

Mr. PRYOR. Mr. President, part 2 is the windfall itself.

Remember: The drug industry is the only industry which enjoys special protection because of this GATT loophole.

As a result of that special protection, the American consumer is going to pay more for a handful of bestsellilng drugs—in fact, as much as $2 billion to $6 billion more.

If we take Zantac, an ulcer drug as well as the world's best-selling drug, for example, a consumer is going to have to pay twice as much for Zantac.

If we take Capoten for hypertension, for example, we are going to be paying from 40 to 45 percent more for the next 2 or 3 years for Capoten than we would if we corrected this mistake.

Here, for example, is a bottle of Zantac made by Glaxo Welcome. Typically, you can go to the retail pharmacy and spend $180 for a 2-month supply of Zantac. If we simply correct the GATT loophole, we would have a generic drug out there within weeks, and the consumer could be buying this same bottle of Zantac for no more than $90.

Mr. President, that is outrageous. We should be embarrassed. We should be embarrassed if we do not correct this horrendous mistake. There is no conceivable reason why we should allow this loophole to remain uncorrected.

Do you want a second opinion? Ask Mickey Kantor, the U.S. Trade Representative, as well as the Patent and Trademark Office or the Food and Drug Administration. Ask the people who know. All of them agree that this provision should be fixed and that this loophole should be closed.

The GATT negotiators, Mr. President, the people who personally negotiated the treaty itself and who represented this country in those complex negotiations, say without question that a mistake was made.

Even the drug companies which benefit from our mistake and currently enjoy this undeserved profit admit it was all a mistake. In fact, one of their spokesmen, upon reading our legislative error—and realizing they had gained a multibillion dollar windfall—said, ''Eureka.''

Mr. President, Congress is faced with a choice: Do the right thing, fix the legislative error and save the taxpayers and the consumers money, or cave in to the lobbying and to the deception of several pharmaceutical companies.

Mr. President, that brings us to the third and the last part of the equation; that is, the solution. What is the solution?

Closing this loophole is very simple. It will not change our patents. It will not violate the sanctity of our patent law. It will not alter our trade policy nor the GATT treaty. It simply applies GATT to those free-riding drug companies the same way it applies to every other company and every other product in America.

This amendment would save consumers as much as $6 billion. The Government would save hundreds of billions of dollars. People are talking about slashing Medicare and Medicaid, and here are billions of dollars that we could save if we would just fix a simple mistake.

Let me add that this is not a partisan issue. It never has been. I hope it will not be. It is about fixing a mistake, saving taxpayer money, and basically doing the right thing.

I know for a fact that many of my colleagues, Republican and Democrat alike, support our amendment. I also know that some of my colleagues have come to me in the last 2 or 3 weeks especially, and have said, ''Gosh, we want to vote with you. But we have a Glaxo factory, or we have a Glaxo office, or we have a Glaxo facility in our State, and we do not know if we can be with you or not.''

Mr. President, I hope that they will look at the overall picture. There is only one possible reason to oppose this solution. You have to honestly believe that these companies deserve a multibillion-dollar windfall. I do not. You have to ignore the fact that this was a mistake. That is the truth. And you have to believe that the consumers should pay more for those drugs because a legislative drafting error is a sound basis for public policy.

Is that what we believe, Mr. President? I do not believe that is the case in the U.S. Senate.

I have summarized the three pieces of this issue: the loophole, the windfall, and the solution. But there is a dark side to this issue, a shadow cast by a few companies who will enjoy this multibillion-dollar windfall. They have pulled out the stops. They have hired every lobbyist, law firm, and consultant inside and outside the beltway. Their motto is, ''Don't confuse me with the facts, because on this one there's just too much money at stake.''

This is how a newspaper headline read just last week: ''Money Greases Massive Effort to Protect Glaxo Windfall.''

Mr. President, Glaxo is the name of the company with the most at stake. They have hired the lawyers, they have hired the lobbyists, and they are here right this minute. They make the No. 1 drug in the world, Zantac. Last year, they sold $2.2 billion worth of Zantac. Every day Glaxo sells $6 million worth of this particular drug. That means the windfall for this single company is absolutely enormous.

The amount of money Glaxo has at stake is $3.6 billion.

That doesn't include the $300 million for Squibb and the more than $100 extra million for Searle.

Mr. President, finally, does our proposed amendment violate the sanctity of patent rights? Of course, it does not.

Here is a letter of September 25, 1995, directed to our friend on the other side of the aisle, from Rhode Island, Senator JOHN CHAFEE. It was signed by Mickey Kantor, our U.S. Trade Representative. It says there is no way that it would violate the sanctity of patent rights. Why is this a question at all? Because, with all of the simple facts against them, Glaxo and its cohorts have had to create an issue out of thin air to lobby with.

Does our amendment curtail research dollars? Certainly not. In the case of Zantac, all of the research on this particular drug was completed 20 years ago. Glaxo has had a 17-year monopoly to collect a fair and deserved return. And does anybody believe Glaxo will commit this money to research? The fact is, the industry still spends more on advertising than it does on research. And when was the last time someone invested money they don't deserve? Look under Glaxo's mattress and look at their campaign donations: that's where this money is going.

In fact, a lot of the underlying research on these products was done at taxpayer expense, not Glaxo's. We fund the National Institutes of Health. We give the industry generous research and development tax write-offs. We protect them in Puerto Rico from paying income taxes by section 936 of the Tax Code. And they still charge the American consumer far more than they charge the overseas consumer.

And now we are about to allow Glaxo and other companies an additional 3 years' worth of illegitimate monopoly. Remember, we are talking about $6 million a day of competition-free cash on one, single product. Is that what we are all about in the United States Senate? Handing out $3.6 billion in consumers' hardearned money as an unjustified bonus?

The great Notre Dame football coach, Lou Holtz, formerly coached the Arkansas Razorbacks. Coach Holtz was known for many things, but one thing that is indelible in my mind is his ''do-right'' rule. Coach Holtz had a rule that if something was not covered in the rule book or if it was a close question or what have you, he would just say, ''Let's use the do-right rule.''

Mr. President, I think now is the time for the Senate to adopt a do-right rule—to protect the taxpayer and to protect the consumer from an unjustified, undeserved windfall for a few pharmaceutical companies.

On a few occasions in the near future, I will be discussing this GATT loophole again. I hope that my colleagues in this body will help us correct this absolutely unthinkable situation. I trust they will join me in correcting this loophole in the GATT treaty.

I thank the Chair. I yield the floor.

I see no others seeking recognition. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

CHANGE IN MEMBERSHIP OF THE JOINT COMMITTEE ON TAXATION

The PRESIDING OFFICER. The chair announces, on behalf of the chairman of the Finance Committee, pursuant to section 8002 of title 26, United

States Code, a change in the membership of the Joint Committee on Taxation. Mr. CHAFEE has been added to the joint committee. Therefore, the membership of the Joint Committee on Taxation is as follows: the Senator from Delaware [Mr. ROTH]; the Senator from Rhode Island [Mr. CHAFEE]; the Senator from Utah [Mr. HATCH]; the Senator from New York [Mr. MOYNIHAN]; the Senator from Montana [Mr. BAUCUS].

INTERNATIONAL ORGANIZED CRIME AND DRUG TRAFFICKING

Mr. GRASSLEY. Mr. President, I want to welcome President Clinton to the effort to deal with international organized crime. In his recent speech to the United Nations, he noted the rising influence of these groups worldwide and the cost they exact from all nations, costs that are borne most heavily by their unfortunate victims. In his remarks he called for greater international efforts to fight criminal organizations. In sounding this theme he is picking up on something that Congress urged the administration to pursue over a year ago in a Senate resolution to the 1994 crime bill.

Whether it is trafficking in drugs or people. Whether through extortion, murder, and corruption. Whether it is the threat of trafficking in chemical, biological, or nuclear agents. Or whether it is massive fraud aimed at banks, businesses, and governments, organized criminal groups exact billions of dollars in damage. And the human costs are even greater. The drug-blasted lives, the fear, the distortion of economics, and the erosion of decent government in many parts of the world are the product of criminal gangs that have fastened onto social life like leeches. These facts have lead a number of governments to declare criminal organizations to be national security threats. As the crises in Italy and Colombia, the challenges to democracy in Russia, and brazenness of Mexican Mafias show, no country, developed or developing is immune to the cancer of criminal actions.

And these groups are developing a global reach. They have become multinational thug empires that will stop at nothing to turn an illegal profit. No single government is able to deal with these groups singlehandedly, not even the United States. That is why the Congress has held numerous hearings in the past several years on the threat from these groups and has called upon the administration to take the problem seriously. If we are going to respond to these groups and to their corruption of decent life, we must develop the range of responses that can put these people out of business and in jail.

In this regard, we need the intelligence capabilities to target key groups and their leaders. We need to help other countries strengthen their legal frameworks and their police capabilities to combat transnational criminal groups. We need to tighten up our financial control capabilities to prevent these groups from abusing our financial and banking systems. And we need international awareness and a common effort to bring these thugs to justice. That is why the Congress enjoined the administration last year to pursue an international convention that would deny these groups safe havens and the benefits of their plunder.

President Clinton has indicated he believes we face a serious challenge. If he intends to translate his rhetoric into deeds, then he will find support in Congress for his efforts. I hope that we shall see serious proposals from the President that will move us down the path of meaningful and sustained action.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996

The PRESIDING OFFICER. Pursuant to the order of September 22, 1995, the Senate will now proceed to the immediate consideration of H.R. 2546, the District of Columbia appropriations bill. Pursuant to that same order, all after the enacting clause of the House bill is stricken and the text of S. 1244, as passed by the Senate, is inserted in lieu thereof, the Senate amendment is agreed to; the bill is deemed read the third time and passed; the motion to reconsider is laid upon the table, and S. 1244 is indefinitely postponed.

So the bill (H.R. 2546), as amended, was passed; as follows:

H.R. 2546

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 District of Columbia for the fiscal year ending September 30, 1996, and for other purposes, namely:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1996, $660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,000,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $149,793,000 and 1,465 full-time equivalent positions (end of year) (including $118,167,000 and 1,125 full-time equivalent positions from local funds, $2,464,000 and 5 full-time equivalent positions from Federal funds, $4,474,000 and 71 full-time equivalent positions from other funds, and $24,688,000 and 264 full-time equivalent positions from intra-District funds): *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That $29,500,000 is used for pay-as-you-go capital projects of which $1,500,000 shall be used for a capital needs assessment study, and $28,000,000 shall be used for a new financial management system of which $2,000,000 shall be used to develop a needs analysis and assessment of the existing financial management environment, and the remaining $26,000,000 shall be used to procure the necessary hardware and installation of new software, conversion, testing and training: *Provided further,* That the $26,000,000 shall not be obligated or expended until: (1) the District of Columbia Financial Responsibility and Management Assistance Authority submits a report to the General Accounting Office within 90 days after the date of enactment of this Act reporting the results of the needs analysis and assessment of the existing financial management environment, specifying the deficiencies in, and recommending necessary improvements to or replacement of the District's financial management system including a detailed explanation of each recommendation and its estimated cost; (2) the General Accounting Office reviews the Authority's report and forwards it along with such comments or recommendations as deemed appropriate on any matter contained therein to the Committees on Appropriations of the House and the Senate, the Committee on Governmental Reform and Oversight of the House, and the Committee on Governmental Affairs of the Senate within 60 days from receipt of the report; and (3) 30 days lapse after receipt by Congress of the General Accounting Office's comments or recommendations.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $139,285,000 and 1,692 full-time equivalent positions (end-of-year) (including $66,505,000 and 696 full-time equivalent positions from local funds, $38,792,000 and 509 full-time equivalent positions from Federal funds, $17,658,000 and 260 full-time equivalent positions from other funds, and $16,330,000 and 227 full-time equivalent positions from intra-District funds): *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2–135; D.C. Code, sec. 45–2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Housing Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the

first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Housing Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Housing Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $954,106,000 and 11,544 full-time equivalent positions (end-of-year) (including $930,889,000 and 11,365 full-time equivalent positions from local funds, $8,942,000 and 70 full-time equivalent positions from Federal funds, $5,160,000 and 4 full-time equivalent positions from other funds, and $9,115,000 and 105 full-time equivalent positions from intra-District funds): *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further,* That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further,* That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further,* That the Metropolitan Police Department shall employ an authorized level of sworn officers not to be less than 3,800 sworn officers for the fiscal year ending September 30, 1996: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1985: *Provided further,* That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1996, in relation to the Lorton prison complex: *Provided further,* That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $788,983,000 and 11,670 full-time equivalent positions (end-of-year) (including $670,833,000 and 9,996 full-time equivalent positions from local funds, $87,385,000 and 1,227 full-time equivalent positions from Federal funds, $21,719,000 and 234 full-time equivalent positions from other funds, and $9,046,000 and 213 full-time equivalent positions from intra-District funds), to be allocated as follows: $577,242,000 and 10,167 full-time equivalent positions (including $494,556,000 and 9,014 full-time equivalent positions from local funds, $75,786,000 and 1,058 full-time equivalent positions from Federal funds, $4,343,000 and 44 full-time equivalent positions from other funds, and $2,557,000 and 51 full-time equivalent positions from intra-District funds), for the public schools of the District of Columbia; $109,175,000 from local funds shall be allocated for the District of Columbia Teachers' Retirement Fund; $79,269,000 and 1,079 full-time equivalent positions (including $45,250,000 and 572 full-time equivalent positions from local funds, $10,611,000 and 156 full-time equivalent positions from Federal funds, $16,922,000 and 189 full-time equivalent positions from other funds, and $6,486,000 and 162 full-time equivalent positions from intra-District funds) for the University of the District of Columbia; $21,062,000 and 415 full-time equivalent positions (including $20,159,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, $454,000 and 1 full-time equivalent position from other funds, and $3,000 from intra-District funds) for the Public Library; $2,267,000 and 9 full-time equivalent positions (including $1,725,000 and 2 full-time equivalent positions from local funds and $542,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities; $64,000 from local funds for the District of Columbia School of Law and a reduction of $96,000 for the Education Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1996, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $1,845,638,000 and 6,469 full-time equivalent positions (end-of-year) (including $1,067,516,000 and 3,650 full-time equivalent positions from local funds, $726,685,000 and 2,639 full-time equivalent positions from Federal funds, $46,763,000 and 66 full-time equivalent positions from other funds, and $4,674,000 and 114 full-time equivalent positions from intra-District funds): *Provided,* That $26,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $297,326,000 and 1,914 full-time equivalent positions (end-of-year) (including $225,673,000 and 1,158 full-time equivalent positions from local funds, $2,682,000 and 32 full-time equivalent positions from Federal funds, $18,342,000 and 68 full-time equivalent positions from other funds, and $50,629,000 and 656 full-time equivalent positions from intra-District funds): *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For payment to the Washington Convention Center Fund, $5,400,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $327,787,000 from local funds.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,678,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)).

SHORT-TERM BORROWING

For short-term borrowing, $9,698,000 from local funds.

PAY RENEGOTIATION OR REDUCTION IN COMPENSATION

The Mayor shall reduce appropriations and expenditures for personal services in the amount of $46,409,000, by decreasing rates of compensation for District government employees; such decreased rates are to be realized for employees who are subject to collective bargaining agreements to the extent possible through the renegotiation of existing collective bargaining agreements: *Provided,* That, if a sufficient reduction from employees who are subject to collective bargaining agreements is not realized through renegotiating existing agreements, the Mayor shall decrease rates of compensation for such employees, notwithstanding the provisions of any collective bargaining agreements.

RAINY DAY FUND

For mandatory unavoidable expenditures within one or several of the various appropriation headings of this Act, to be allocated to the budgets for personal services and nonpersonal services as requested by the Mayor and approved by the Council pursuant to the procedures in section 4 of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–363), $4,563,000 from local funds: *Provided,* That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1996 or not later than 15 days after the last amount remaining in the fund is disbursed.

INCENTIVE BUYOUT PROGRAM

For the purpose of funding costs associated with the incentive buyout program, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable, $19,000,000.

OUTPLACEMENT SERVICES

For the purpose of funding outplacement services for employees who leave the District of Columbia government involuntarily, $1,500,000.

BOARDS AND COMMISSIONS

The Mayor shall reduce appropriations and expenditures for boards and commissions under the various headings in this Act in the amount of $500,000.

GOVERNMENT RE-ENGINEERING PROGRAM

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $16,000,000 within one or several of the various appropriation headings in this Act.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

Notwithstanding any other provision of law, the Mayor shall adjust appropriations and expenditures for personal and nonpersonal services, together with the related full-time equivalent positions, in accordance with the direction of the District of Columbia Financial Responsibility and Management Assistance Authority such that there is a net reduction of $148,411,000, within or among one or several of the various appropriation headings in this Act, pursuant to section 208 of Public Law 104–8, approved April 17, 1995 (109 Stat. 134).

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, $168,222,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $105,660,000 appropriated under this heading in prior fiscal years is rescinded: *Provided further,* That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1997, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1997: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $193,398,000 and 1,024 full-time equivalent positions (end-of-year) (including $188,221,000 and 924 full-time equivalent positions from local funds, $433,000 from other funds, and $4,744,000 and 100 full-time equivalent positions from intra-District funds), of which $41,036,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $39,477,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): *Provided,* That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $229,907,000 and 88 full-time equivalent positions (end-of-year) (including $8,099,000 and 88 full-time equivalent positions for administrative expenses and $221,808,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,469,000 and 8 full-time equivalent positions (end-of-year) (including $2,137,000 and 8 full-time equivalent positions from local funds and $332,000 from other funds), of which $690,000 shall be transferred to the general fund of the District of Columbia.

STARPLEX FUND

For the Starplex Fund, $8,637,000 from other funds for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): *Provided,* That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, a reduction of $2,487,000 and a reduction of 180 full-time equivalent positions in intra-District funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Comprehensive Retirement Reform Act of 1989, approved November 17, 1989 (93 Stat. 866; D.C. Code, sec. 1–711), $13,417,000 and 11 full-time equivalent positions (end-of-year) from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided,* That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88–622), $10,048,000 and 66 full-time equivalent positions (end-of-year) (including $3,415,000 and 22 full-time equivalent positions from other funds and $6,633,000 and 44 full-time equivalent positions from intra-District funds).

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $37,957,000, of which $5,400,000 shall be derived by transfer from the general fund.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), $3,500,000.

GENERAL PROVISIONS

SEC. 101. 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. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. 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. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1997, shall be transmitted to the Congress no later than April 15, 1996.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on Government Reform and Oversight, District of Columbia Subcommittee, the Subcommittee on General Services, Federalism, and the District of Columbia, of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided,* That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 115. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 116. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 117. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.).

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 119. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 120. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1995 shall be deemed to be the rate of pay payable for that position for September 30, 1995.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 121. Notwithstanding any other provisions of law, the provisions of the District of

Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 122. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 123. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1996, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1996 revenue estimates as of the end of the first quarter of fiscal year 1996. These estimates shall be used in the budget request for the fiscal year ending September 30, 1997. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 124. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 125. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term ''program, project, and activity'' shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 126. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037: Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 127. For the fiscal year ending September 30, 1996, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 128. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, secs. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1995, of the required reorganization plans.

SEC. 129. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1996 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided*, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term ''entity of the District of Columbia government'' includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 130. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representatives under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 131. (a) IN GENERAL.—Section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 1–233(a), D.C. Code), as amended by section 108(b)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, is amended—

(1) by striking ''or'' at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ''; or''; and

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

''(11) enact any act, resolution, or rule which obligates or expends funds of the District of Columbia (without regard to the source of such funds) for any abortion, or which appropriates funds to any facility owned or operated by the District of Columbia in which any abortion is performed, except where the life of the mother would be endangered if the fetus were carried to term, or in cases of forcible rape reported within 30 days to a law enforcement agency, or cases of incest reported to a law enforcement agency or child abuse agency prior to the performance of the abortion.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts, resolutions, or rules of the Council of the District of Columbia which take effect in fiscal years beginning with fiscal year 1996.

SEC. 132. None of the funds appropriated in this Act shall be obligated or expended on any proposed change in either the use or configuration of, or on any proposed improvement to, the Municipal Fish Wharf until such proposed change or improvement has been reviewed and approved by Federal and local authorities including, but not limited to, the National Capital Planning Commission, the Commission of Fine Arts, and the Council of the District of Columbia, in compliance with applicable local and Federal laws which require public hearings, compliance with applicable environmental regulations including, but not limited to, any amendments to the Washington, D.C. urban renewal plan which must be approved by both the Council of the District of Columbia and the National Capital Planning Commission.

SEC. 133. (a) SENSE OF CONGRESS.—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 agency of the Federal or District of Columbia government, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 134. (a) No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis such benefits are extended to legally married couples.

(b) The Health Care Benefits Expansion Act (D.C. Law 9–114; sec. 36–140l et seq., D.C. Code) is hereby repealed.

SEC. 135. Sections 431(f) and 433(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; Public Law 93–198; D.C. Code, secs. 11–1524 and title 11, App. 433), are amended to read as follows:

(a) Section 431(f) (D.C. Code, sec. 11–1524) is amended to read as follows:

''(f) Members of the Tenure Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.''.

(b) Section 433(b)(5) (title 11, App. 433) is amended to read as follows:

''(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.''.

SEC. 136. Section 451 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 803; Public Law 93–198; D.C. Code, sec. 1–1130), is amended by adding a new subsection (c) to read as follows:

''(c)(1) The District may enter into multiyear contracts to obtain goods and services for which funds would otherwise be

available for obligation only within the fiscal year for which appropriated.

''(2) If the funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled or terminated, and the cost of cancellation or termination may be paid from—

''(A) appropriations originally available for the performance of the contract concerned;

''(B) appropriations currently available for procurement of the type of acquisition covered by the contract, and not otherwise obligated; or

''(C) funds appropriated for those payments.

''(3) No contract entered into under this section shall be valid unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by act of the Council). The Council shall be required to take affirmative action to approve the contract within 45 days. If no action is taken to approve the contract within 45 calendar days, the contract shall be deemed disapproved.''.

SEC. 137. The District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1051; D.C. Code, sec. 47–801 et seq.), is amended as follows:

(1) Section 412 (D.C. Code, sec. 47–812) is amended as follows:

(A) Subsection (a) is amended by striking the third and fourth sentences and inserting the following sentences in their place: ''If the Council does extend the time for establishing the rates of taxation on real property, it must establish those rates for the tax year by permanent legislation. If the Council does not establish the rates of taxation of real property by October 15, and does not extend the time for establishing rates, the rates of taxation applied for the prior year shall be the rates of taxation applied during the tax year.''.

(B) A new subsection (a–2) is added to read as follows:

''(a–2) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable real property in the District of Columbia for the tax year beginning October 1, 1995, and ending September 30, 1996, shall be the same rates in effect for the tax year beginning October 1, 1993, and ending September 30, 1994.''.

(2) Section 413(c) (D.C. Code, sec. 47–815(c)) is repealed.

SEC. 138. Title 18 U.S.C. 1761(b) is amended by striking the period at the end and inserting the phrase ''or not-for-profit organizations.'' in its place.

SEC. 139. Within 120 days of the effective date of this Act, the Mayor shall submit to the Congress and the Council a report delineating the actions taken by the executive to effect the directives of the Council in this Act, including—

(1) negotiations with representatives of collective bargaining units to reduce employee compensation;

(2) actions to restructure existing long-term city debt;

(3) actions to apportion the spending reductions anticipated by the directives of this Act to the executive for unallocated reductions; and

(4) a list of any position that is backfilled including description, title, and salary of the position.

SEC. 140. The Board of Education shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains; the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

SEC. 141. The University of the District of Columbia shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center and responsibility center, for all funds, including capital funds.

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains: the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes made in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

SEC. 142. (a) The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1995, fiscal year 1996, and thereafter on full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor and Council of the District of Columbia, by not later than February 8 of each year.

SEC. 143. (a) Not later than October 1, 1995, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the Congress, the Mayor, and Council of the District of Columbia, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301).

SEC. 144. The Board of Education, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301), or before submitting their respective budgets directly to the Council.

SEC. 145. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

SEC. 146. (a) No agency, including an independent agency, shall fill a position wholly funded by appropriations authorized by this Act, which is vacant on October 1, 1995, or becomes vacant between October 1, 1995, and

September 30, 1996, unless the Mayor or independent agency submits a proposed resolution of intent to fill the vacant position to the Council. The Council shall be required to take affirmative action on the Mayor's resolution within 30 legislative days. If the Council does not affirmatively approve the resolution within 30 legislative days, the resolution shall be deemed disapproved.

(b) No reduction in the number of full-time equivalent positions or reduction-in-force due to privatization or contracting out shall occur if the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), disallows the full-time equivalent position reduction provided in this act in meeting the maximum ceiling of 35,771 for the fiscal year ending September 30, 1996.

(c) This section shall not prohibit the appropriate personnel authority from filling a vacant position with a District government employee currently occupying a position that is funded with appropriated funds.

(d) This section shall not apply to local school-based teachers, school-based officers, or school-based teachers' aides; or court personnel covered by title 11 of the D.C Code, except chapter 23.

SEC. 147. (a) Not later than 15 days after the end of every fiscal quarter (beginning October 1, 1995), the Mayor shall submit to the Council a report with respect to the employees on the capital project budget for the previous quarter.

(b) Each report submitted pursuant to subsection (a) of this section shall include the following information—

(1) a list of all employees by position, title, grade and step;

(2) a job description, including the capital project for which each employee is working;

(3) the date that each employee began working on the capital project and the ending date that each employee completed or is projected to complete work on the capital project; and

(4) a detailed explanation justifying why each employee is being paid with capital funds.

SEC. 148. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), is amended as follows:

(a) Section 301 (D.C. Code, sec. 1–603.1) is amended as follows:

(1) A new paragraph (13A) is added to read as follows:

''(13A) 'Nonschool-based personnel' means any employee of the District of Columbia Public Schools who is not based at a local school or who does not provide direct services to individual students.''.

(2) A new paragraph (15A) is added to read as follows:

''(15A) 'School administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia Public Schools.''.

(b) Section 801A(b)(2) (D.C. Code, sec. 1–609.1(b)(2)) is amended by adding a new subparagraph (L–i) to read as follows:

''(L–i) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;''

(c) Section 2402 (D.C. Code, sec. 1–625.2) is amended by adding a new subsection (f) to read as follows:

''(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool- based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.''.

SEC. 149. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee'

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

SEC. 150. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), is amended as follows:

(a) Section 2401 (D.C. Code, sec. 1–625.1) is amended by amending the third sentence to read as follows: ''A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency.''.

(b) A new section 2406 is added to read as follows:

''SEC. 2406. Abolishment of positions for Fiscal Year 1996.

''(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1996, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

''(b) Prior to February 1, 1996, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

''(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

''(d) An employee effected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to 1 round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

''(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the U.S. Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

''(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

''(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to this section shall be subject to review except as follows—

''(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2–38; D.C. Code, sec. 1–2543); and

''(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

''(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

''(1) four years for an employee who qualified for veteran's preference under this act, and

''(2) three years for an employee who qualified for residency preference under this act.

''(i) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

''(j) The Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1996, or upon the delivery of termination notices to individual employees.

''(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this act shall not be deemed negotiable.

''(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1996, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section''.

SEC. 151. Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1996 under the caption ''Division of Expenses'' shall not exceed $4,867,283,000.

REQUIRING DEVELOPMENT OF PLAN TO CLOSE LORTON CORRECTIONAL COMPLEX

SEC. 152. (a) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—Not later than February 15, 1996, the District of Columbia shall develop a plan for closing the Lorton Correctional Complex over a transition period not to exceed 5 years in length.

(2) REQUIREMENTS OF PLAN.—The plan developed by the District of Columbia under paragraph (1) shall meet the following requirements:

(A) Under the plan, the Lorton Correctional Complex will be closed by the expiration of the transition period.

(B) Under the plan, the District of Columbia may not operate any correctional facilities on the Federal property known as the Lorton Complex located in Fairfax County, Virginia, after the expiration of the transition period.

(C) The plan shall include provisions specifying how and to what extent the District will utilize alternative management, including the private sector, for the operation of correctional facilities for the District, and shall include provisions describing the treatment under such alternative management (including under contracts) of site selection, design, financing, construction, and operation of correctional facilities for the District.

(D) The plan shall include an implementation schedule, together with specific performance measures and timelines to determine the extent to which the District is meeting the schedule during the transition period.

(E) Under the plan, the Mayor of the District of Columbia shall submit a semi-annual report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority describing the actions taken by the District under the plan, and in addition shall regularly report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority on all significant measures taken under the plan as soon as such measures are taken.

(b) CONSISTENCY WITH FINANCIAL PLAN AND BUDGET.—In developing the plan under subsection (a), the District of Columbia shall ensure that for each of the years during which the plan is in effect, the plan shall be consistent with the financial plan and budget for the District of Columbia for the year under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(c) SUBMISSION OF PLAN.—Upon completing the development of the plan under subsection (a), the District of Columbia shall submit the plan to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority.

PROHIBITION AGAINST ADOPTION BY UNMARRIED COUPLES

SEC. 153. (a) IN GENERAL.—Section 16–302, D.C. Code, is amended—

(1) by striking ''Any person'' and inserting ''(a) Subject to subsection (b), any person''; and

(2) by adding at the end the following subsection:

''(b) No person may join in a petition under this section unless the person is the spouse of the petitioner.''.

(b) NO EFFECT ON PETITIONS FOR ADOPTION FILED BY INDIVIDUAL UNMARRIED PETITIONER.—Nothing in section 16–302(b), D.C. Code (as added by subsection (a)) shall be construed to affect the ability of any unmarried person to file a petition for adoption in the Superior Court of the District of Columbia where no other person joins in the petition.

TECHNICAL CORRECTIONS TO FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT

SEC. 154. (a) REQUIRING GSA TO PROVIDE SUPPORT SERVICES.—Section 103(f) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended by striking ''may provide'' and inserting ''shall promptly provide''.

(b) AVAILABILITY OF CERTAIN FEDERAL BENEFITS FOR INDIVIDUALS WHO BECOME EMPLOYED BY THE AUTHORITY.—

(1) FORMER FEDERAL EMPLOYEES.—Subsection (e) of section 102 of such Act is amended to read as follows:

''(e) PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE AUTHORITY.—

''(1) IN GENERAL.—Any Federal employee who becomes employed by the Authority—

''(A) may elect, for the purposes set forth in paragraph (2)(A), to be treated, for so long as that individual remains continuously employed by the Authority, as if such individual had not separated from service with the Federal Government, subject to paragraph (3); and

''(B) shall, if such employee subsequently becomes reemployed by the Federal Government, be entitled to have such individual's service with the Authority treated, for purposes of determining the appropriate leave accrual rate, as if it had been service with the Federal Government.

''(2) EFFECT OF AN ELECTION.—An election made by an individual under the provisions of paragraph (1)(A)—

''(A) shall qualify such individual for the treatment described in such provisions for purposes of—

''(i) chapter 83 or 84 of title 5, United States Code, as appropriate (relating to retirement), including the Thrift Savings Plan;

''(ii) chapter 87 of such title (relating to life insurance); and

''(iii) chapter 89 of such title (relating to health insurance); and

''(B) shall disqualify such individual, while such election remains in effect, from participating in the programs offered by the government of the District of Columbia (if any) corresponding to the respective programs referred to in subparagraph (A).

''(3) CONDITIONS FOR AN ELECTION TO BE EFFECTIVE.—An election made by an individual under paragraph (1)(A) shall be ineffective unless—

''(A) it is made before such individual separates from service with the Federal Government; and

''(B) such individual's service with the Authority commences within 3 days after so separating (not counting any holiday observed by the government of the District of Columbia).

''(4) CONTRIBUTIONS.—If an individual makes an election under paragraph (1)(A), the Authority shall, in accordance with applicable provisions of law referred to in paragraph (2)(A), be responsible for making the same deductions from pay and the same agency contributions as would be required if it were a Federal agency.

''(5) REGULATIONS.—Any regulations necessary to carry out this subsection shall be prescribed by—

''(A) the Office of Personnel Management, to the extent that any program administered by the Office is involved;

''(B) the appropriate office or agency of the government of the District of Columbia, to the extent that any program administered by such office or agency is involved; and

''(C) the Executive Director referred to in section 8474 of title 5, United States Code, to the extent that the Thrift Savings Plan is involved.''.

(2) OTHER INDIVIDUALS.—Section 102 of such Act is further amended by adding at the end the following:

''(f) FEDERAL BENEFITS FOR OTHERS.—

''(1) IN GENERAL.—The Office of Personnel Management, in conjunction with each corresponding office or agency of the government of the District of Columbia, shall prescribe regulations under which any individual who becomes employed by the Authority (under circumstances other than as described in subsection (e)) may elect either—

''(A) to be deemed a Federal employee for purposes of the programs referred to in subsection (e)(2)(A)(i)-(iii); or

''(B) to participate in 1 or more of the corresponding programs offered by the government of the District of Columbia.

''(2) EFFECT OF AN ELECTION.—An individual who elects the option under subparagraph (A) or (B) of paragraph (1) shall be disqualified, while such election remains in effect, from participating in any of the programs referred to in the other such subparagraph.

''(3) DEFINITION OF 'CORRESPONDING OFFICE OR AGENCY'.—For purposes of paragraph (1), the term 'corresponding office or agency of the government of the District of Columbia' means, with respect to any program administered by the Office of Personnel Management, the office or agency responsible for administering the corresponding program (if any) offered by the government of the District of Columbia.

''(4) THRIFT SAVINGS PLAN.—To the extent that the Thrift Savings Plan is involved, the preceding provisions of this subsection shall be applied by substituting 'the Executive Director referred to in section 8474 of title 5, United States Code' for 'the Office of Personnel Management'.''.

(3) EFFECTIVE DATE; ADDITIONAL ELECTION FOR FORMER FEDERAL EMPLOYEES SERVING ON DATE OF ENACTMENT; ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD.—

(A) EFFECTIVE DATE.—Not later than 6 months after the date of enactment of this Act, there shall be prescribed (and take effect)—

(i) regulations to carry out the amendments made by this subsection; and

(ii) any other regulations necessary to carry out this subsection.

(B) ADDITIONAL ELECTION FOR FORMER FEDERAL EMPLOYEES SERVING ON DATE OF ENACTMENT.—

(i) IN GENERAL.—Any former Federal employee employed by the Authority on the effective date of the regulations referred to in subparagraph (A)(i) may, within such period as may be provided for under those regulations, make an election similar, to the maximum extent practicable, to the election provided for under section 102(e) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this subsection. Such regulations shall be prescribed jointly by the Office of Personnel Management and each corresponding office or agency of the government of the District of Columbia (in the same manner as provided for in section 102(f) of such Act, as so amended).

(ii) EXCEPTION.—An election under this subparagraph may not be made by any individual who—

(I) is not then participating in a retirement system for Federal employees (disregarding Social Security); or

(II) is then participating in any program of the government of the District of Columbia referred to in section 102(e)(2)(B) of such Act (as so amended).

(C) ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD.—

(i) FROM THE FEDERAL GOVERNMENT.—Subsection (e) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as last in effect before the date of enactment of this Act) shall be deemed to have remained in effect for purposes of any Federal employee who becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on such date of enactment and ending on the day before the effective date of the regulations prescribed to carry out subparagraph (B).

(ii) OTHER INDIVIDUALS.—The regulations prescribed to carry out subsection (f) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as amended by this subsection) shall include provisions under which an election under such subsection shall be available to any individual who—

(I) becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on the date of enactment of this Act and ending on the day before the effective date of such regulations;

(II) would have been eligible to make an election under such regulations had those regulations been in effect when such individual became so employed; and

(III) is not then participating in any program of the government of the District of Columbia referred to in subsection (f)(1)(B) of such section 102 (as so amended).

(c) EXEMPTION FROM LIABILITY FOR CLAIMS FOR AUTHORITY EMPLOYEES.—Section 104 of such Act is amended—

(1) by striking ''the Authority and its members'' and inserting ''the Authority, its members, and its employees''; and

(2) by striking ''the District of Columbia'' and inserting ''the Authority or its members or employees or the District of Columbia''.

(d) PERMITTING REVIEW OF EMERGENCY LEGISLATION.—Section 203(a)(3) of such Act is amended by striking subparagraph (C).

TITLE II—DISTRICT OF COLUMBIA SCHOOL REFORM

SEC. 2001. SHORT TITLE.

This title may be cited as the ''District of Columbia School Reform Act of 1995''.

SEC. 2002. DEFINITIONS.

Except as otherwise provided, for purposes of this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate;

(B) the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate; and

(C) the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(2) AUTHORITY.—The term ''Authority'' means the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8).

(3) AVERAGE DAILY ATTENDANCE.—The term ''average daily attendance'', when used with respect to a school and a period of time, means the aggregate attendance of the school during the period divided by the number of days during the period on which—

(A) the school is in session; and

(B) the pupils of the school are under the guidance and direction of teachers.

(4) AVERAGE DAILY MEMBERSHIP.—

(A) INDIVIDUAL SCHOOL.—The term ''average daily membership'', when used with respect to a school and a period of time, means the aggregate enrollment of the school during the period divided by the number of days during the period on which—

(i) the school is in session; and

(ii) the pupils of the school are under the guidance and direction of teachers.

(B) GROUPS OF SCHOOLS.—The term ''average daily membership'', when used with respect to a group of schools and a period of time, means the average of the average daily memberships during the period of the individual schools that constitute the group.

(5) BOARD OF EDUCATION.—The term ''Board of Education'' means the Board of Education of the District of Columbia.

(6) BOARD OF TRUSTEES.—The term ''Board of Trustees'' means the governing board of a public charter school, the members of which board have been selected pursuant to the charter granted to the school and in a manner consistent with this title.

(7) CONTROL PERIOD.—The term ''control period'' means a period of time described in section 209 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8).

(8) CORE CURRICULUM.—The term ''core curriculum'' means the concepts, factual knowledge, and skills that students in the District of Columbia should learn in kindergarten through 12th grade in academic content areas, including, at a minimum, English, mathematics, science, and history.

(9) DISTRICT OF COLUMBIA COUNCIL.—The term ''District of Columbia Council'' means the Council of the District of Columbia established pursuant to section 401 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 1–221).

(10) DISTRICT OF COLUMBIA GOVERNMENT.—

(A) IN GENERAL.—The term ''District of Columbia government'' means the government of the District of Columbia, including—

(i) any department, agency, or instrumentality of the government of the District of Columbia;

(ii) any independent agency of the District of Columbia established under part F of title IV of the District of Columbia Self-Government and Governmental Reorganization Act;

(iii) any other agency, board, or commission established by the Mayor or the District of Columbia Council;

(iv) the courts of the District of Columbia;

(v) the District of Columbia Council; and

(vi) any other agency, public authority, or public benefit corporation that has the authority to receive monies directly or indirectly from the District of Columbia (other than monies received from the sale of goods, the provision of services, or the loaning of funds to the District of Columbia).

(B) EXCEPTIONS.—The term ''District of Columbia government'' does not include the following:

(i) The Authority.

(ii) A public charter school.

(11) DISTRICT OF COLUMBIA GOVERNMENT RETIREMENT SYSTEM.—The term ''District of Columbia government retirement system'' means the retirement programs authorized by the District of Columbia Council or the Congress for employees of the District of Columbia government.

(12) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—

(A) IN GENERAL.—The term ''District of Columbia public school'' means a public school in the District of Columbia that offers classes—

(i) at any of the grade levels from prekindergarten through the 12th grade; or

(ii) leading to a general education diploma.

(B) EXCEPTION.—The term does not include a public charter school.

(13) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—The term ''District of Columbia public schools'' means all schools that are District of Columbia public schools.

(14) DISTRICT-WIDE ASSESSMENTS.—The term ''district-wide assessments'' means reliable and unbiased student assessments administered by the Superintendent to students enrolled in District of Columbia public schools and public charter schools.

(15) ELIGIBLE APPLICANT.—The term ''eligible applicant'' means a person, including a private, public, or quasi-public entity and an institution of higher education (as defined in section 481 of the Higher Education Act of 1965), who seeks to establish a public charter school.

(16) ELIGIBLE CHARTERING AUTHORITY.—The term ''eligible chartering authority'' means any of the following:

(A) The Board of Education.

(B) Any of the following public or federally-chartered universities:

(i) Howard University.

(ii) Gallaudet University.

(iii) American University.

(iv) George Washington University.

(v) The University of the District of Columbia.

(C) Any other entity designated by enactment of a bill as an eligible chartering authority by the District of Columbia Council after the date of the enactment of this Act.

(17) FACILITIES MANAGEMENT.—The term ''facilities management'' means the administration, construction, renovation, repair, maintenance, remodeling, improvement, or other oversight, of a building or real property of a District of Columbia public school. The term does not include the performance of any such act with respect to real property owned by a public charter school.

(18) FAMILY RESOURCE CENTER.—The term ''family resource center'' means an information desk—

(A) located at a school with a majority of students whose family income is not greater than 185 percent of the poverty guidelines updated annually in the Federal Register by the Department of Health and Human Services under authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981; and

(B) which links students and families to local resources and public and private entities involved in child care, adult education, health and social services, tutoring, mentoring, and job training.

(19) LONG-TERM REFORM PLAN.—The term ''long-term reform plan'' means the plan submitted by the Superintendent under section 2101.

(20) MAYOR.—The term ''Mayor'' means the Mayor of the District of Columbia.

(21) METROBUS AND METRORAIL TRANSIT SYSTEM.—The term ''Metrobus and Metrorail Transit System'' means the bus and rail systems administered by the Washington Metropolitan Area Transit Authority.

(22) MINOR STUDENT.—The term ''minor student'' means an individual who—

(A) is enrolled in a District of Columbia public schools or a public charter school; and

(B) is not beyond the age of compulsory school attendance, as prescribed in section 1 of article I, and section 1 of article II, of the Act of February 4, 1925 (sections 31–401 and 31–402, D.C. Code).

(23) NONRESIDENT STUDENT.—The term ''nonresident student'' means—

(A) an individual under the age of 18 who is enrolled in a District of Columbia public school or a public charter school, and does not have a parent residing in the District of Columbia; or

(B) an individual who is age 18 or older and is enrolled in a District of Columbia public school or public charter school, and does not reside in the District of Columbia.

(24) PANEL.—The term ''Panel'' means the World Class Schools Panel established under subtitle D.

(25) PARENT.—The term ''parent'' means a person who has custody of a child enrolled in a District of Columbia public school or a public charter school, and who—

(A) is a natural parent of the child;

(B) is a stepparent of the child;

(C) has adopted the child; or

(D) is appointed as a guardian for the child by a court of competent jurisdiction.

(26) PETITION.—The term ''petition'' means a written application, submitted by an eligible applicant to an eligible chartering authority, to establish a public charter school.

(27) PROMOTION GATE.—The term ''promotion gate'' means the criteria, developed by the Superintendent and approved by the Board of Education, that are used to determine student promotion at different grade levels. Such criteria shall include achievement on district-wide assessments that, to the greatest extent practicable, measure student achievement of the core curriculum.

(28) PUBLIC CHARTER SCHOOL.—The term ''public charter school'' means a publicly funded school in the District of Columbia that is established pursuant to subtitle B. A public charter school is not a part of the District of Columbia public schools.

(29) SCHOOL.—The term ''school'' means—

(A) a public charter school; or

(B) any other day or residential school that provides elementary or secondary education, as determined under State or District of Columbia law.

(30) STUDENT WITH SPECIAL NEEDS.—The term ''student with special needs'' has the meaning given such term by the Mayor and the District of Columbia Council under section 2301.

(31) SUPERINTENDENT.—The term ''Superintendent'' means the Superintendent of the District of Columbia public schools.

(32) TEACHER.—The term ''teacher'' means any person employed as a teacher by the Board of Education or by a public charter school.

Subtitle A—District of Columbia Reform Plan

SEC. 2101. LONG-TERM REFORM PLAN.

(a) IN GENERAL.—

(1) PLAN.—The Superintendent, with the approval of the Board of Education, shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, and the Authority a long-term reform plan, not later than February 1, 1996. The plan shall be consistent with the financial plan and budget for the District of Columbia for fiscal year 1996 required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8).

(2) CONSULTATION.—

(A) IN GENERAL.—In developing the long-term reform plan, the Superintendent—

(i) shall consult with the Board of Education, Mayor, and District of Columbia Council, and, in a control period, with the Authority; and

(ii) shall afford the public, interested organizations, and groups an opportunity to present their views and make recommendations regarding the long-term reform plan.

(B) SUMMARY OF RECOMMENDATIONS.—The Superintendent shall include in the long-term plan a summary of the recommendations made under subparagraph (A)(ii) and the response of the Superintendent to these recommendations.

(b) CONTENTS.—

(1) AREAS TO BE ADDRESSED.—The long-term plan shall describe how the District of Columbia public schools will become a world-class education system which prepares students for life-time learning in the 21st century and which is on a par with the best education systems of other nations. The plan shall include a description of how the District of Columbia public schools will accomplish the following:

(A) Achievement at nationally- and internationally-competitive levels by students attending District of Columbia public schools.

(B) The creation of a performance-oriented workforce.

(C) The construction and repair of District of Columbia public school facilities.

(D) Local school governance, decentralization, autonomy, and parental choice among District of Columbia public schools; and

(E) The implementation of an efficient and effective adult literacy program.

(2) OTHER INFORMATION.—For each of the items in subparagraphs (A) through (G) of paragraph (1), the long-term plan shall include—

(A) a statement of measurable, objective performance goals;

(B) a description of the measures of performance to be used in determining whether the Superintendent and Board of Education have met the goals;

(C) dates by which the goals must be met;

(D) plans for monitoring and reporting progress to District of Columbia residents, the appropriate congressional committees, the Mayor, the District of Columbia Council, and the Authority; and

(E) the title of the management employee of the District of Columbia public schools most directly responsible for the achievement of each goal and, with respect to each such employee, the title of the employee's immediate supervisor or superior.

(c) AMENDMENTS.—The Superintendent, with the approval of the Board of Education, shall submit any amendment to the long-term plan to the appropriate congressional committees. Any amendment to the long-term plan shall be consistent with the financial plan and budget for fiscal year 1996 for the District of Columbia required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8).

Subtitle B—Public Charter Schools

SEC. 2151. PROCESS FOR FILING CHARTER PETITIONS.

(a) EXISTING PUBLIC SCHOOL.—An eligible applicant seeking to convert an existing District of Columbia public school into a public charter school—

(1) shall prepare a petition to establish a public charter school that meets the requirements of section 2152;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school;

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) has been signed by a majority of the total number of—

(i) parents of minor students attending the school; and

(ii) adult students attending the school; and

(B) has been endorsed by at least a majority of full-time teachers at the school; and

(4) shall explain in the petition the relationship that will exist between the public charter school and its employees.

(b) INDEPENDENT OR PRIVATE SCHOOL.—An eligible applicant seeking to convert an existing independent or private school in the District of Columbia into a public charter school—

(1) shall prepare a petition to establish a public charter school that meets the requirements of section 2152;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school;

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) has been signed by a majority of the total number of—

(i) parents of minor students attending the school; and

(ii) adult students attending the school; and

(B) has been endorsed by at least a majority of full-time teachers at the school; and

(4) shall explain in the petition the relationship that will exist between the public charter school and its employees.

(c) NEW SCHOOL.—An eligible applicant seeking to establish in the District of Columbia a public charter school, but not seeking to convert an existing public, private, or independent school into a public charter school, shall file with an eligible chartering authority for approval a petition to establish a public charter school that meets the requirements of section 2152.

SEC. 2152. CONTENTS OF PETITION.

A petition to establish a public charter school shall include the following:

(1) A statement defining the mission and goals of the proposed school.

(2) A statement of the need for the proposed school in the geographic area of the school site.

(3) A description of the proposed instructional goals and methods for the school, which includes, at a minimum—

(A) the methods that will be used to provide students with the knowledge, proficiency, and skills needed—

(i) to become nationally and internationally competitive students and educated individuals in the 21st century; and

(ii) to perform competitively on any districtwide assessments; and

(B) the methods that will be used to improve student self-motivation, classroom instruction, and learning for all students.

(4) A description of the plan for evaluating student academic achievement of the proposed school and the procedures for remedial action that will be used by the school when the academic achievement of a student falls below the expectations of the school.

(5) An operating budget for the first 2 years of the proposed school that is based on anticipated enrollment and contains—

(A) a description of the method for conducting annual audits of the financial, administrative, and programmatic operations of the school;

(B) either—

(i) an identification of the site where the school will be located, including a description of any buildings on the site and any buildings proposed to be constructed on the site; or

(ii) a timetable by which a such an identification will be made;

(C) a description of any major contracts planned, with a value equal to or exceeding $10,000, for equipment and services, leases, improvements, purchases of real property, or insurance; and

(D) a timetable for commencing operations as a public charter school.

(6) A description of the proposed rules and policies for governance and operation of the school.

(7) Copies of the proposed articles of incorporation and bylaws of the school.

(8) The names and addresses of the members of the proposed Board of Trustees.

(9) A description of the student enrollment, admission, suspension, and expulsion policies and procedures of the proposed school, and the criteria for making decisions in such areas.

(10) A description of the procedures the school plans to follow to ensure the health and safety of students, employees, and guests of the school and to comply with applicable health and safety laws and regulations of the Federal Government and the District of Columbia.

(11) An explanation of the qualifications that will be required of employees of the proposed school.

(12) An identification, and a description, of the individuals and entities submitting the application, including their names and addresses, and the names of the organizations or corporations of which such individuals are directors or officers.

SEC. 2153. PROCESS FOR APPROVING OR DENYING CHARTER PETITIONS.

(a) SCHEDULE.—An eligible chartering authority may establish a schedule for receiving petitions to establish a public charter school and shall publish any such schedule in the District of Columbia Register. An eligible chartering authority shall make a copy of any such schedule available to all interested persons upon request.

(b) PUBLIC HEARING.—Not later than 45 days after a petition to establish a public charter school is filed with an eligible chartering authority, the authority shall hold a public hearing on the petition to gather the information that is necessary for the authority to make the decision to approve or deny the petition.

(c) NOTICE.—Not later than 10 days prior to the scheduled date of a public hearing on a petition to establish a public charter school, an eligible chartering authority—

(1) shall publish a notice of the hearing in the District of Columbia Register; and

(2) shall send a written notification of the hearing date to the eligible applicant who filed the petition.

(d) APPROVAL OR DENIAL.—Subject to subsection (i), an eligible chartering authority shall approve a petition to establish a public charter school, if—

(1) the authority determines that the petition satisfies the requirements of this subtitle; and

(2) the eligible applicant who filed the petition agrees to satisfy any condition or requirement, consistent with this title and other applicable law, that is set forth in writing by the eligible chartering authority as an amendment to the petition.

(e) TIMETABLE.—An eligible chartering authority shall approve or deny a petition to establish a public charter school not later than 45 days after the conclusion of the public hearing on the petition.

(f) EXTENSION.—An eligible chartering authority and an eligible applicant may agree to extend the 45-day time period referred to in subsection (e) by a period that does not exceed 30 days.

(g) EXPLANATION.—If an eligible chartering authority denies a petition or finds it to be incomplete, the authority shall specify in writing the reasons for its decision and indicate, when appropriate, how the eligible applicant who filed the petition may revise the petition to satisfy the requirements for approval.

(h) APPROVED PETITION.—

(1) NOTICE.—Not later than 10 days after an eligible chartering authority approves a petition to establish a public charter school, the authority shall provide a written notice of the approval, including a copy of the approved petition and any conditions or requirements agreed to under subsection (d)(2), to the eligible applicant and to the Chief Financial Officer of the District of Columbia. The eligible chartering authority shall publish a notice of the approval of the petition in the District of Columbia Register.

(2) CHARTER.—The provisions of a petition to establish a public charter school that has been approved by an eligible chartering authority, together with any amendments to the petition containing conditions or requirements agreed to by the eligible applicant under subsection (d)(2), shall be considered a charter granted to the school by the authority.

(i) SPECIAL RULES FOR FIRST YEAR.—During the one-year period beginning on the date of the enactment of this Act, each eligible chartering authority—

(1) may approve not more than one petition filed by an eligible applicant seeking to convert an existing independent or private school into a public charter school; and

(2) in considering a petition to establish a public charter school filed by any eligible applicant, shall consider whether the school will focus on students with special needs.

(j) EXCLUSIVE AUTHORITY OF CHARTERING AUTHORITY.—Notwithstanding any other Federal law or law of the District of Columbia, no governmental entity, elected official, or employee of the District of Columbia may make, participate in making, or intervene in the making of, the decision to approve or deny a petition to establish a public charter school, except the eligible chartering authority with which the petition was filed.

SEC. 2154. DUTIES AND POWERS OF, AND OTHER REQUIREMENTS ON, PUBLIC CHARTER SCHOOLS.

(a) DUTIES.—A public charter school shall comply with—

(1) this subtitle;

(2) any other provision of law applicable to the school; and

(3) all of the terms and provisions of its charter.

(b) POWERS.—A public charter school shall have all of the powers necessary for carrying out its charter, including the following powers:

(1) To adopt a name and corporate seal, but only if the name selected includes the words ''public charter school''.

(2) To acquire real property for use as its school facilities, from public or private sources.

(3) To receive and disburse funds for school purposes.

(4) Subject to subsection (c)(1), to secure appropriate insurance and to make contracts and leases, including agreements to procure or purchase services, equipment, and supplies.

(5) To incur debt in reasonable anticipation of the receipt of funds from the general fund of the District of Columbia or the receipt of other Federal or private funds.

(6) To solicit and accept any grants or gifts for school purposes, if the school—

(A) does not accept any grants or gifts subject to any condition contrary to law or contrary to the terms of the petition to establish the school as a public charter school; and

(B) maintains separate accounts for grants or gifts for financial reporting purposes.

(7) To be responsible for its own operation, including preparation of a budget and personnel matters.

(8) To sue and be sued in its own name.

(c) PROHIBITIONS AND OTHER REQUIREMENTS.—

(1) CONTRACTING AUTHORITY.—

(A) NOTICE REQUIREMENT.—Except in the case of an emergency, with respect to any contract proposed to be awarded by a public charter school and having a value equal to or exceeding $10,000, the school shall publish a notice of a request for proposals in the District of Columbia Register not less than 30 days prior to the award of the contract.

(B) SUBMISSION TO AUTHORITY.—

(i) DEADLINE FOR SUBMISSION.—With respect to any contract described in subparagraph (A) that is awarded by a public charter school, the school shall submit to the Authority, not later than 3 days after the date on which the award is made, all bids for the contract received by the school, the name of the contractor who is awarded the contract, and the rationale for the award of the contract.

(ii) EFFECTIVE DATE OF CONTRACT.—

(I) IN GENERAL.—Subject to subclause (II), a contract described in subparagraph (A) shall become effective on the date that is 15 days after the date the school makes the submission under clause (i) with respect to the contract, or the effective date specified in the contract, whichever is later.

(II) EXCEPTION.—A contract described in subparagraph (A) shall be considered null and void if the Authority determines, within 12 days of the date the school makes the submission under clause (i) with respect to the contract, that the contract endangers the economic viability of the public charter school.

(2) TUITION.—A public charter school may not charge tuition, fees, or other mandatory payments, except to nonresident students.

(3) CONTROL.—A public charter school—

(A) shall exercise exclusive control over its expenditures, administration, personnel, and instructional methods, within the limitations imposed in this title; and

(B) shall be exempt from statutes, policies, rules, and regulations governing District of Columbia public schools established by the Superintendent, Board of Education, Mayor, District of Columbia Council, or Authority, except as otherwise provided in this title or in the charter granted to the school.

(4) AUDITS.—A public charter school shall be subject to the same financial audits, audit procedures, and fiduciary requirements as a District of Columbia public school.

(5) GOVERNANCE.—A public charter school shall be governed by a Board of Trustees in a manner consistent with the charter granted to the school, the provisions of this title, and any other law applicable to the school.

(6) OTHER STAFF.—No employee of the District of Columbia public schools may be required to accept employment with, or be assigned to, a public charter school.

(7) OTHER STUDENTS.—No student enrolled in a District of Columbia public school may be required to attend a public charter school.

(8) TAXES OR BONDS.—A public charter school shall not levy taxes or issue bonds.

(9) CHARTER REVISION.—A public charter school seeking to revise its charter shall prepare a petition for approval of the revision and file it with the eligible chartering authority that granted the charter. The provisions of section 2153 shall apply to such a petition in the same manner as such provisions apply to a petition to establish a public charter school.

(10) ANNUAL REPORT.—

(A) IN GENERAL.—A public charter school shall submit an annual report to the eligible chartering authority that approved its charter and to the Authority. The school shall permit a member of the public to review any such report upon request.

(B) CONTENTS.—A report submitted under subparagraph (A) shall include the following data:

(i) Student performance on any district-wide assessments.

(ii) Grade advancement for students enrolled in the public charter school.

(iii) Graduation rates, college admission test scores, and college admission rates, if applicable.

(iv) Types and amounts of parental involvement.

(v) Official student enrollment.

(vi) Average daily attendance.

(vii) Average daily membership.

(viii) A financial statement audited by an independent certified public accountant.

(ix) A list of all donors and grantors that have contributed monetary or in-kind donations having a value equal or exceeding $500 during the year that is the subject of the report.

(C) NONIDENTIFYING DATA.—Data described in subparagraph (B) that are included in an annual report may not identify the individuals to whom the data pertain.

(11) STUDENT ENROLLMENT REPORT.—A public charter school shall report to the Mayor and the District of Columbia Council annual student enrollment on a grade-by-grade basis, including students with special needs, in a manner and form that permits the Mayor and the District of Columbia Council to comply with subtitle E.

(12) CENSUS.—A public charter school shall provide to the Board of Education student enrollment data necessary for the Board to comply with section 3 of article II of the Act of February 4, 1925 (D.C. Code, sec. 31–404) (relating to census of minors).

(13) COMPLAINT RESOLUTION PROCESS.—A public charter school shall establish an informal complaint resolution process.

(14) PROGRAM OF EDUCATION.—A public charter school shall provide a program of education which shall include one or more of the following:

(A) Pre-school.

(B) Pre-kindergarten.

(C) Any grade or grades from kindergarten through 12th grade.

(D) Adult community, continuing, and vocational education programs.

(15) NONSECTARIAN NATURE OF SCHOOLS.—A public charter school shall be nonsectarian.

(16) NONPROFIT STATUS OF SCHOOL.—A public charter school shall be organized under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(17) IMMUNITY FROM CIVIL LIABILITY.—

(A) IN GENERAL.—A public charter school, and its incorporators, Board of Trustees, officers, employees, and volunteers, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(i) constitutes gross negligence;

(ii) constitutes an intentional tort; or

(iii) is criminal in nature.

(B) COMMON LAW IMMUNITY PRESERVED.—Subparagraph (A) shall not be construed to abrogate any immunity under common law of a person described in such subparagraph.

SEC. 2155. BOARD OF TRUSTEES OF A PUBLIC CHARTER SCHOOL.

(a) BOARD OF TRUSTEES.—The members of a Board of Trustees of a public charter school shall be elected or selected pursuant to the charter granted to the school. Such a board shall have an odd number of members that does not exceed 7, of which—

(1) a majority shall be residents of the District of Columbia; and

(2) at least 2 shall be a parent of a student attending the school.

(b) ELIGIBILITY.—An individual is eligible for election or selection to the Board of Trustees of a public charter school if the person—

(1) is a teacher or staff member who is employed at the school;

(2) is a parent of a student attending the school; or

(3) meets the selection or election criteria set forth in the charter granted to the school.

(c) ELECTION OR SELECTION OF PARENTS.—In the case of the first Board of Trustees of a public charter school to be elected or selected after the date on which the school is granted a charter, the election or selection of the members under subsection (a)(2) shall occur on the earliest practicable date after classes at the school have commenced. Until such date, any other members who have been elected or selected shall serve as an interim Board of Trustees. Such an interim board may exercise all of the powers, and shall be subject to all of the duties, of a Board of Trustees.

(d) FIDUCIARIES.—The Board of Trustees of a public charter school shall be fiduciaries of the school and shall set overall policy for the school. The Board of Trustees may make final decisions on matters related to the operation of the school, consistent with the charter granted to the school, this title, and other applicable law.

SEC. 2156. STUDENT ADMISSION, ENROLLMENT, AND WITHDRAWAL.

(a) OPEN ENROLLMENT.—Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students who meet the tuition requirement in subsection (e).

(b) CRITERIA FOR ADMISSION.—A public charter school may not limit enrollment on the basis of a student's intellectual or athletic ability, measures of achievement or aptitude, or a student's disability. A public charter school may limit enrollment to specific grade levels or areas of focus of the school, such as mathematics, science, or the arts, where such a limitation is consistent with the charter granted to the school.

(c) RANDOM SELECTION.—If there are more applications to enroll in a public charter school from students who are residents of the District of Columbia than there are spaces available, students shall be admitted using a random selection process.

(d) ADMISSION TO AN EXISTING SCHOOL.—During the 5-year period beginning on the date that a petition, filed by an eligible applicant seeking to convert an existing public, private, or independent school into a public charter school, is approved, the school shall give priority in enrollment to—

(1) students enrolled in the school at the time that the petition is granted;

(2) the siblings of students described in paragraph (1); and

(3) in the case of the conversion of an existing public school, students who reside within the attendance boundaries, if any, in which the school is located.

(e) NONRESIDENT STUDENTS.—Nonresident students shall pay tuition to a public charter school at the current rate established for District of Columbia public schools administered by the Board of Education for the type of program in which the student has enrolled.

(f) STUDENT WITHDRAWAL.—A student may withdraw from a public charter school at any time and, if otherwise eligible, enroll in a District of Columbia public school administered by the Board of Education.

(g) EXPULSION AND SUSPENSION.—The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school.

SEC. 2157. EMPLOYEES.

(a) EXTENDED LEAVE OF ABSENCE WITHOUT PAY.—

(1) LEAVE OF ABSENCE FROM DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—The Superintendent shall grant, upon request, an extended leave of absence, without pay, to an employee of the District of Columbia public schools for the purpose of permitting the employee to accept a position at a public charter school for a 2-year term.

(2) REQUEST FOR EXTENSION.—At the end of a 2-year term referred to in paragraph (1), an employee granted an extended leave of absence without pay under the paragraph may submit a request to the Superintendent for an extension of the leave of absence for an additional 2-year term. The Superintendent may not unreasonably withhold approval of the request.

(3) RIGHTS UPON TERMINATION OF LEAVE.—An employee granted an extended leave of absence without pay for the purpose described in paragraph (1) shall have the same rights and benefits under law upon termination of such leave of absence as an employee of the District of Columbia public schools who is granted an extended leave of absence without pay for any other purpose.

(b) RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—An employee of a public charter school who has received a leave of absence under subsection (a) shall receive creditable service, as defined in section 2604 of D.C. Law 2–139, effective March 3, 1979, (D.C. Code, sec. 1–627.4) and the rules established under such section, for the period of the employee's employment at the public charter school.

(2) AUTHORITY TO ESTABLISH SEPARATE SYSTEM.—A public charter school may establish a retirement system for employees under its authority.

(3) ELECTION OF RETIREMENT SYSTEM.—A former employee of the District of Columbia public schools who become an employee of a public charter school within 60 after the date the employee's employment with the District of Columbia public schools is terminated may, at the time the employee commences employment with the public charter school, elect—

(A) to remain in a District of Columbia government retirement system and continue to receive creditable service for the period of their employment at a public charter school; or

(B) to transfer into a retirement system established by the public charter school pursuant to paragraph (2) .

(4) PROHIBITED EMPLOYMENT CONDITIONS.—No public charter school may require a former employee of the District of Columbia public schools to transfer to the public charter school's retirement system as a condition of employment.

(5) CONTRIBUTIONS.—

(A) EMPLOYEES ELECTING NOT TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to remain in a District of Columbia government retirement system pursuant to paragraph (3)(A), the public charter school that employs the person shall make the same contribution to such system on behalf of the person as the District of Columbia would have been required to make if the person had continued to be an employee of the District of Columbia public schools.

(B) EMPLOYEES ELECTING TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to transfer into a retirement system of a public charter school pursuant to paragraph (3)(B), the applicable District of Columbia government retirement system from which the former employee is transferring shall compute the employee's contribution to that system and transfer this amount, to the retirement system by the public charter school.

(c) EMPLOYMENT STATUS.—Notwithstanding any other provision of law, an employee of a public charter school shall not be considered to be an employee of the District of Columbia government for any purpose.

SEC. 2158. REDUCED FARES FOR PUBLIC TRANSPORTATION.

A student attending a public charter school shall be eligible for reduced fares on the Metrobus and Metrorail Transit System on the same terms and conditions as are applicable under section 2 of D.C. Law 2–152, effective March 9, 1979, (D.C. Code, sec. 44–216 et seq.) to a student attending a District of Columbia public school.

SEC. 2159. DISTRICT OF COLUMBIA PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.

The Superintendent may provide services such as facilities maintenance to public charter schools. All compensation for costs of such services shall be subject to negotiation and mutual agreement between a public charter school and the Superintendent.

SEC. 2160. APPLICATION OF LAW.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT.—

(1) TREATMENT AS LOCAL EDUCATIONAL AGENCY.—For any fiscal year, a public charter school shall be considered to be a local educational agency for purposes of part A of title I of the Elementary and Secondary Education Act of 1965, and shall be eligible for assistance under such part, if the percentage of pupils enrolled in the public charter school during the preceding fiscal year who were eligible for, and received, free or reduced price school lunches under the National School Lunch Act is equal to or greater than the lowest such percentage for any District of Columbia public school that was selected to provide services under section 1113 of such Act for such preceding year.

(2) ALLOCATION FOR FISCAL YEARS 1996 THROUGH 1998.—

(A) PUBLIC CHARTER SCHOOLS.—For fiscal years 1996 through 1998, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the District of Columbia's total allocation under such part which bears the same ratio to such total allocation as the number described in subparagraph (C) bears to the number described in subparagraph (D).

(B) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—For fiscal years 1996 through 1998, the District of Columbia public schools shall receive a portion of the District of Columbia's total allocation under part A of title I of the Elementary and Secondary Education Act of 1965 which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of paragraph (2)(D) bears to the aggregate total described in paragraph (2)(D).

(C) NUMBER OF ELIGIBLE PUPILS ENROLLED IN THE PUBLIC CHARTER SCHOOL.—The number described in this subparagraph is the number of pupils enrolled in the public charter school during the preceding fiscal year who were eligible for, and received, free or reduced price school lunches under the National School Lunch Act.

(D) AGGREGATE NUMBER OF ELIGIBLE PUPILS.—The number described in this subparagraph is the aggregate total of the following numbers:

(i) The number of pupils enrolled during the preceding fiscal year in all eligible public charter schools who were eligible for, and received, free or reduced price school lunches under the National School Lunch Act.

(ii) The number of pupils who, during the preceding fiscal year—

(I) were enrolled in a District of Columbia public school selected to provide services under section 1113 of the Elementary and Secondary Education Act of 1965; and

(II) were eligible for, and received, free or reduced price school lunches under the National School Lunch Act.

(iii) The number of pupils who, during the preceding fiscal year—

(I) were enrolled in a private or independent school;

(II) were eligible for, and received, free or reduced price school lunches under the National School Lunch Act; and

(III) resided in an attendance area of a District of Columbia public school selected to provide services under section 1113 of the Elementary and Secondary Education Act of 1965.

(3) ALLOCATION FOR FISCAL YEAR 1999 AND THEREAFTER.—

(A) CALCULATION BY SECRETARY.—Notwithstanding sections 1124(a)(2), 1124(c)(2), 1124A(a)(4), 1125(c)(2), and 1125(d) of the Elementary and Secondary Education Act of 1965, for fiscal year 1999 and fiscal years thereafter, the total allocation under part A of title I of such Act for all local educational agencies in the District of Columbia, including public charter schools that are eligible to receive assistance under such part, shall be calculated by the Secretary of Education. In making such calculation, such Secretary shall treat all such local educational agencies as if they were a single local educational agency for the District of Columbia.

(B) ALLOCATION.—

(i) PUBLIC CHARTER SCHOOLS.—For fiscal year 1999 and fiscal years thereafter, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the number described in paragraph (2)(C) bears to the number described in paragraph (2)(D).

(ii) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—For fiscal year 1999 and fiscal years thereafter, the District of Columbia public schools shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of paragraph (2)(D) bears to the aggregate total described in paragraph (2)(D).

(4) USE OF ESEA FUNDS.—The Board of Education may not direct a public charter school in the charter school's use of funds under part A of title I of the Elementary and Secondary Education Act of 1965.

(5) INAPPLICABILITY OF CERTAIN ESEA PROVISIONS.—The following provisions of the Elementary and Secondary Education Act of 1965 shall not apply to a public charter school:

(A) Paragraphs (5), (8), and (9) of section 1112(b).

(B) Subsection 1112(c).

(C) Section 1113.

(D) Section 1115A.

(E) Subsections (a), (b), and (c) of section 1116.

(F) Subsections (a), (c), (d), (e), (f), and (g) of section 1118.

(G) Section 1120.

(H) Subsections (a) and (c) of section 1120A.

(I) Section 1120B.

(J) Section 1126.

(b) PROPERTY AND SALES TAXES.—A public charter school shall be exempt from District of Columbia property and sales taxes.

SEC. 2161. POWERS AND DUTIES OF ELIGIBLE CHARTERING AUTHORITIES.

(a) OVERSIGHT.—

(1) IN GENERAL.—An eligible chartering authority—

(A) shall monitor the operations of each public charter school to which the authority has granted a charter;

(B) shall ensure that each such school complies with applicable laws and the provisions of the charter granted to the school; and

(C) shall monitor the progress of each such school in meeting student academic achievement expectations specified in the charter granted to the school.

(2) PRODUCTION OF BOOKS AND RECORDS.—An eligible chartering authority may require a public charter school to which the authority has granted a charter to produce any book, record, paper, or document, if the authority determines that such production is necessary for the authority to carry out its functions under this title.

(b) FEES.—

(1) APPLICATION FEE.—An eligible chartering authority may charge an eligible applicant a fee, not to exceed $150, for processing a petition to establish a public charter school.

(2) ADMINISTRATION FEE.—In the case of an eligible chartering authority that has granted a charter to an public charter school, the authority may charge the school a fee, not to exceed one-half of one percent of the annual budget of the school, to cover the cost of undertaking the ongoing administrative responsibilities of the authority with respect to the school that are described in this subtitle. The school shall pay the fee to the eligible chartering authority not later than November 15 of each year.

(c) IMMUNITY FROM CIVIL LIABILITY.—

(1) IN GENERAL.—An eligible chartering authority, a governing board of such an authority, and the directors, officers, employees, and volunteers of such an authority, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(A) constitutes gross negligence;

(B) constitutes an intentional tort; or

(C) is criminal in nature.

(2) COMMON LAW IMMUNITY PRESERVED.—Paragraph (1) shall not be construed to abrogate any immunity under common law of a person described in such paragraph.

SEC. 2162. CHARTER RENEWAL.

(a) TERM.—A charter granted to a public charter school shall remain in force for a 5-year period, but may be renewed for an unlimited number of 5-year periods.

(b) APPLICATION FOR CHARTER RENEWAL.—In the case of a public charter school that desires to renew its charter, the Board of Trustees of the school shall file an application to renew the charter with the eligible chartering authority that granted the charter not later than 120 days before the expiration of the charter. The application shall contain the following:

(1) A report on the progress of the public charter school in achieving the goals, student academic achievement expectations, and other terms of the approved charter.

(2) All audited financial statements for the public charter school for the preceding 4 years.

(c) APPROVAL OF CHARTER RENEWAL APPLICATION.—The eligible chartering authority that granted a charter shall approve an application to renew the charter that is filed in accordance with subsection (b) unless the authority determines that—

(1) the school committed a material violation of the conditions, terms, standards, or procedures set forth in the charter; or

(2) the school failed to meet the goals and student academic achievement expectations set forth in the charter.

(d) PROCEDURES FOR CONSIDERATION OF CHARTER RENEWAL.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that has received an application to renew a charter that is filed by a Board of Trustees in accordance with subsection (b) shall provide to the Board written notice of the right to an informal hearing on the application. The eligible chartering authority shall provide the notice not later than 15 days after the date on which the authority received the application.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board may request, in writing, an informal hearing on the application before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on an application to renew a charter—

(i) not later than 30 days after the date on which the authority provided the written notice of the right to a hearing, in the case of an application with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of an application with respect to which a hearing is held.

(B) REASONS FOR NONRENEWAL.—An eligible chartering authority that denies an application to renew a charter shall state in its decision, in reasonable detail, the grounds for the denial.

(5) ALTERNATIVES UPON NONRENEWAL.—An eligible chartering authority that denies an application to renew a charter granted to a public charter school, or whose decision approving such an application is reversed under section 2162(e), may—

(A) manage the school directly until alternative arrangements can be made for students at the school; or

(B) place the school in a probationary status that requires the school to take remedial actions, to be determined by the authority, that directly relate to the grounds for the denial.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be subject to judicial review.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

(e) BOARD OF EDUCATION RENEWAL REVIEW.—

(1) NOTICE OF DECISION TO RENEW.—An eligible chartering authority, other than the Board of Education, that renders a decision to approve an application to renew a charter granted to a public charter school—

(A) shall provide a copy of the decision to the Superintendent, the Board of Education, and the school not later than 3 days after the decision is rendered; and

(B) shall publish the decision in the District of Columbia Register not later than 5 days after the decision is rendered.

(2) RECOMMENDATION OF SUPERINTENDENT.—Not later than 30 days after an eligible chartering authority provides a copy of a decision approving an application to renew a charter to the Superintendent under paragraph (1), the Superintendent may recommend to the Board of Education, in writing, that the decision be reversed.

(3) STANDARD OF REVIEW BY BOARD OF EDUCATION.—The Board of Education may concur in a recommendation of the Superintendent under paragraph (2), and reverse a decision approving an application to renew a charter granted to a public charter school, if the Board of Education determines that—

(A) the school failed to meet the goals and student academic achievement expectations set forth in the charter, in the case of a school that has a student body the majority of which comprises students with special needs; or

(B) the average test score for all students enrolled in the school was less than the average test score for all students enrolled in the District of Columbia public schools on the most recently administered the district-wide assessments, in the case of a school that has a student body the majority of which does not comprise students with special needs.

(4) PROCEDURES FOR REVERSING DECISION.—

(A) NOTICE OF RIGHT TO HEARING.—In any case in which the Board of Education is considering reversing a decision approving an application to renew a charter granted to a public charter school, the Board of Education shall provide to the Board of Trustees of the school a written notice stating in reasonable detail the grounds for the proposed reversal. The notice shall inform the Board of Trustees of the right to an informal hearing on the proposed reversal.

(B) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under subparagraph (A), the Board may request, in writing, an informal hearing on the proposed reversal before the Board of Education.

(C) DATE AND TIME OF HEARING.—

(i) NOTICE.—Upon receiving a timely written request for a hearing under subparagraph (B), the Board of Education shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(ii) DEADLINE.—An informal hearing under this paragraph shall take place not later than 30 days after the Board of Education receives a timely written request for the hearing under subparagraph (B).

(D) FINAL DECISION.—

(i) DEADLINE.—The Board of Education shall render a final decision, in writing, on the proposed reversal—

(I) not later than 30 days after the date on which the Board of Education provided the written notice of the right to a hearing, in the case of a proposed reversal with respect to which such a hearing is not held; and

(II) not later than 30 days after the date on which the hearing is concluded, in the case of a proposed reversal with respect to which a hearing is held.

(ii) REASONS FOR REVERSAL.—If the Board of Education reverses a decision approving an application to renew a charter, the Board of Education shall state in its decision, in reasonable detail, the grounds for the reversal.

(E) JUDICIAL REVIEW.—

(i) AVAILABILITY OF REVIEW.—A decision by the Board of Education to reverse a decision approving an application to renew a charter shall be subject to judicial review.

(ii) STANDARD OF REVIEW.—A decision by the Board of Education to reverse a decision approving an application to renew a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2163. CHARTER REVOCATION.

(a) CHARTER OR LAW VIOLATIONS.—An eligible chartering authority that has granted a charter to a public charter school may revoke the charter if the authority determines that the school has committed a violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in the charter.

(b) FISCAL MISMANAGEMENT.—An eligible chartering authority that has granted a charter to a public charter school shall revoke the charter if the authority determines that the school—

(1) has engaged in a pattern of nonadherence to generally accepted accounting principles;

(2) has engaged in a pattern of fiscal mismanagement; or

(3) is no longer economically viable.

(c) PROCEDURES FOR CONSIDERATION OF REVOCATION.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that is proposing to revoke a charter granted to a public charter school shall provide to the Board of Trustees of the school a written notice stating in reasonable detail the grounds for the proposed revocation. The notice shall inform the Board of the right of the Board to an informal hearing on the proposed revocation.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board may request, in writing, an informal hearing on the proposed revocation before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on the revocation of a charter—

(i) not later than 30 days after the date on which the authority provided the written notice of the right to a hearing, in the case of a proposed revocation with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of a proposed revocation with respect to which a hearing is held.

(B) REASONS FOR REVOCATION.—An eligible chartering authority that revokes a charter shall state in its decision, in reasonable detail, the grounds for the denial.

(5) ALTERNATIVES UPON REVOCATION.—An eligible chartering authority that revokes a charter granted to a public charter school may manage the school directly until alternative arrangements can be made for students at the school.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be subject to judicial review.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2164. DISCONTINUANCE OF ELIGIBLE CHARTERING AUTHORITY.

(a) NOTICE.—In the case of an eligible chartering authority that has granted a charter to a public charter school and that becomes unable or unwilling to continue to act in the capacity of an eligible chartering authority with respect to the school, the authority shall provide written notice of such discontinuance to the school, to the extent feasible, not later than the date that is 120 days before the date on which such discontinuance takes effect.

(b) PETITION BY SCHOOL.—A public charter school that has been granted a charter by an eligible chartering authority that becomes unable or unwilling to continue to act in the capacity of an eligible chartering authority with respect to the school shall file a petition with another eligible chartering authority described in subsection (c)(2). The petition shall request that such other authority assume the powers and duties of an eligible chartering authority with respect to the school and the charter granted to the school. The petition shall be filed—

(1) in the case of a public charter school that received a timely notice under subsection (a), not later than 120 days after such notice was received; and

(2) in the case of a public charter school that did not receive a timely notice under subsection (a), not later than 120 days after the date on which the eligible chartering authority ceases to act in the capacity of an eligible chartering authority with respect to the school.

(c) CHARTERING AUTHORITIES REQUIRED TO ASSUME DUTIES.—

(1) IN GENERAL.—If any of the eligible chartering authorities described in paragraph (2) receives a petition filed by a public charter school in accordance with subsection (b), the eligible chartering authority shall grant the petition and assume the powers and duties of an eligible chartering authority with respect to the school and the charter granted to the school.

(2) ELIGIBLE CHARTERING AUTHORITIES.—The eligible chartering authorities referred to in paragraph (1) are the following:

(A) The Board of Education.

(B) Any other entity established, and designated as an eligible chartering authority, by the District of Columbia Council by enactment of a bill after the date of the enactment of this Act.

(d) INTERIM POWERS AND DUTIES OF SCHOOL.—Except as provided in this section, the powers and duties of a public charter school that has been granted a charter by an eligible chartering authority that becomes unable or unwilling to continue to act in the capacity of an eligible chartering authority with respect to the school shall not be affected by such discontinuance, if the school satisfies the requirements of this section.

SEC. 2165. FEDERAL ENTITIES.

(a) IN GENERAL.—The following Federal agencies and federally-established institutions shall explore whether it is feasible for the agency or institution to establish one or more public charter schools:

(1) The Library of Congress.

(2) The National Aeronautics and Space Administration.

(3) The Drug Enforcement Agency.

(4) The National Science Foundation.

(5) The Department of Justice.

(6) The Department of Defense.

(7) The Smithsonian Institution, including the National Zoological Park, the National Museum of American History, the Kennedy Center for the Performing Arts, and the National Gallery of Art.

(b) DETERMINATION.—Not later than 120 days after the date of the enactment of this Act, each agency and institution listed in subsection (a) shall make a determination regarding whether it is feasible for the agency or institution to establish one or more public charter schools.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, any agency or institution listed in subsection (a) that has not filed a petition to establish a public charter school with an eligible chartering authority shall report to the Congress the reasons for the decision.

Subtitle C—Even Start

SEC. 2201. AMENDMENTS FOR EVEN START PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1002 of the Elementary and Secondary Education Act of 1965 is amended by striking subsection (b) and inserting the following:

''(b) EVEN START.—

''(1) IN GENERAL.—For the purpose of carrying out part B, other than Even Start programs for the District of Columbia as described in paragraph (2), there are authorized to be appropriated $118,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

''(2) DISTRICT OF COLUMBIA.—For the purpose of carrying out Even Start programs in the District of Columbia as described in section 1211, there are authorized to be appropriated—

''(A) for fiscal year 1996, $2,000,000 for continued funding made in fiscal year 1995, and for new grants, for an aggregate of 8;

''(B) for fiscal year 1997, $3,500,000 for continued funding made in fiscal year 1996 and for new grants, for an aggregate of 14;

''(C) for fiscal year 1998, $5,000,000 for continued funding made in fiscal years 1996 and 1997 and for new grants, for an aggregate of 20 grants in such fiscal year;

''(D) for fiscal year 1999, $5,000,000 for continued funding made in fiscal years 1996, 1997, and 1998 and for new grants, for an aggregate of 20 grants in such fiscal year; and

''(E) for fiscal year 2000, $5,000,000 for continued funding made in fiscal years 1996, 1997, 1998, and 1999 and for new grants, for an aggregate of 20 grants in such fiscal year or such number as the Secretary determines appropriate pursuant to the evaluation described in section 1211(i)(2).''.

(b) EVEN START FAMILY LITERACY PROGRAMS.—Part B of title I of the Elementary and Secondary Education Act of 1965 is amended—

(1) in section 1202(a)(1), by inserting ''(1)'' after ''1002(b)'';

(2) in section 1202(b), by inserting ''(1)'' after ''1002(b)'';

(3) in section 1202(d)(1)—

(A) by inserting ''(1)'' after ''1002(b)''; and

(B) by inserting ''or under section 1211,'' after ''subsections (a), (b), and (c),'';

(4) in section 1202(d)(3), by inserting ''(1)'' after ''1002(b)'';

(5) in section 1202(e)(4), by striking '', the District of Columbia,'';

(6) in section 1204(a), by inserting ''intensive'' after ''cost of providing'';

(7) in section 1205(4), by inserting '', intensive'' after ''high-quality'';

(8) in section 1206(b)(1), by striking ''described in subsection (a)''; and

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

''SEC. 1211. DISTRICT OF COLUMBIA EVEN START INITIATIVES.

''(a) D.C. PROGRAM AUTHORIZED.—The Secretary shall provide grants, on a competitive basis, to assist eligible entities to carry out Even Start programs in the District of Columbia that build on the findings of the 'National Evaluation of the Even Start Family Literacy Program', such as providing intensive services in parent training and adult literacy or adult education.

''(b) DEFINITION OF 'ELIGIBLE''.—For the purpose of this section, the term 'eligible entity' means a partnership composed of at least—

''(1) a public school in the District of Columbia;

''(2) the local educational agency in existence on September 1, 1995 for the District of Columbia, any other public organization, or an institution of higher education; and

''(3) a private nonprofit community-based organization.

''(c) USES OF FUNDS; COST-SHARING.—

''(1) COMPLIANCE.—Each eligible entity that receives funds under this section shall comply with section 1204(a) and 1204(b)(3), relating to the use of such funds.

''(2) COST-SHARING.—Each program funded under this section is subject to the cost-sharing requirement of section 1204(b)(1), except that the Secretary may waive that requirement, in whole or in part, for any eligible entity that demonstrates to the Secretary's satisfaction that such entity otherwise would not be able to participate in the program under this section.

''(3) MINIMUM.—Except as provided in paragraph (4), each eligible entity selected to receive a grant under this section shall receive not more than $250,000 in any fiscal year, except that the Secretary may increase such amount if the Secretary determines that—

''(A) such entity needs additional funds to be effective; and

''(B) the increase will not reduce the amount of funds available to other programs that receive funds under this section.

''(4) REMAINING FUNDS.—If funds remain after payments are made under paragraph (3) for any fiscal year, the Secretary shall make such remaining funds available to each selected eligible entity in such fiscal year on a pro rata basis.

''(d) PROGRAM ELEMENTS.—Each program assisted under this section shall comply with the program elements described in section 1205, including intensive high quality instruction programs of parent training and adult literacy or adult education.

''(e) ELIGIBLE PARTICIPANTS.—

''(1) IN GENERAL.—Individuals eligible to participate in a program under this section are—

''(A) the parent or parents of a child described in subparagraph (B), or any other adult who is substantially involved in the day-to-day care of the child, who—

''(i) is eligible to participate in an adult education program under the Adult Education Act; or

''(ii) is attending, or is eligible by age to attend, a public school in the District of Columbia; and

''(B) any child, from birth through age 7, of an individual described in subparagraph (A).

''(2) ELIGIBILITY REQUIREMENTS.—The eligibility factors described in section 1206(b) shall apply to programs under this section.

''(f) APPLICATIONS.—Each eligible entity that wishes to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(g) SELECTION OF GRANTEES.—In awarding grants under this section, the Secretary shall—

''(1) use the selection criteria described in subparagraphs (A) through (F) and (H) of section 1208(a)(1); and

''(2) give priority to applications for programs that—

''(A) target services to schools in which a schoolwide program is being conducted under section 1114 of this subtitle; or

''(B) are located in areas designated as empowerment zones or enterprise communities.

''(h) DURATION OF PROGRAMS.—The priority for subgrants described in section 1208(b) shall apply to grants made under this section, except that—

''(1) references in that section to the State educational agency and to subgrants shall be read to refer to the Secretary and to grants under this section, respectively; and

''(2) notwithstanding paragraph (4) of such section, the Secretary shall not provide continuation funding to a recipient under this section if the Secretary determines, after affording the recipient notice and an opportunity for a hearing, that the recipient has not made substantial progress toward achieving its stated objectives and the purpose of this section.

''(i) TECHNICAL ASSISTANCE AND EVALUATION.—

''(1) TECHNICAL ASSISTANCE.—(A) The Secretary shall use not more than 5 percent of the amounts authorized under section 1002(b)(2) for any fiscal year to provide technical assistance to eligible entities, including providing funds to one or more local nonprofit organizations to provide technical assistance to eligible entities in the areas of community development and coalition building, and for the evaluation conducted pursuant to paragraph (2).

''(B) The Secretary shall allocate 5 percent of the amounts authorized under section 1002(b)(2) in any fiscal year to contract with the National Center for Family Literacy to provide technical assistance to eligible entities.

''(2) EVALUATION.—(A) The Secretary shall use funds available under paragraph (1)(A) to provide an independent evaluation of programs under this section to determine their effectiveness in providing high quality family literacy services including—

''(i) intensive and high quality services in adult literacy or adult education;

''(ii) intensive and high quality services in parent training;

''(iii) coordination with related programs;

''(iv) training of related personnel in appropriate skill areas; and

to determine if the grant amount provided to grantees to carry out such projects is appropriate to accomplish the goals of this section.

''(B)(i) Such evaluation shall be conducted by individuals not directly involved in the administration of a program operated with funds provided under this section. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors listed in subparagraph (A).

''(ii) In order to determine a program's effectiveness in achieving its stated goals, each evaluation shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

''(C) The Secretary shall prepare and submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Economic and Education Opportunities of the House of Representatives, the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Governmental Affairs of the Senate a report regarding the results of such evaluations not later than March 1, 1999. The Secretary shall provide an interim report by March 1, 1998.''.

Subtitle D—World Class Schools Panel; Core Curriculum; Assessments; and Promotion Gates

PART 1—WORLD CLASS SCHOOLS PANEL

SEC. 2251. ESTABLISHMENT.

There is established a panel to be known as the ''World Class Schools Panel''.

SEC. 2252. DUTIES OF PANEL.

(a) IN GENERAL.—Not later than July 1, 1996, the Panel shall recommend to the Superintendent and the Board of Education the following:

(1) A core curriculum for kindergarten through the 12th grade developed or selected by the Panel.

(2) District-wide assessments for measuring student achievement in the curriculum developed or selected under paragraph (1). Such assessments shall be developed at several grade levels, including, at a minimum, the grade levels with respect to which the Superintendent establishes promotion gates, as required under section 2263. To the extent feasible, such assessments shall, at a minimum, be designed to provide information that permits the following comparisons to be made:

(A) Comparisons among individual schools and individual students in the District of Columbia.

(B) Comparisons between individual schools and individual students in the District of Columbia and schools and students in other States and the Nation as a whole.

(C) Comparisons between individual schools and individual students in the District of Columbia and schools and students in other nations whose students historically have scored high on international studies of student achievement.

(3) Model professional development programs for teachers using the curriculum developed or selected under paragraph (1).

(b) CONTENT.—The curriculum and assessments recommended under subsection (a) shall be either newly developed or existing materials that are judged by the Panel to be—

(1) ''world class'', including having a level of quality and rigor that is equal to, or greater than, the level of quality and rigor of analogous curricula and assessments of other nations (including nations whose students historically score high on international studies of student achievement); and

(2) appropriate for the District of Columbia public schools.

(c) SUBMISSION TO SECRETARY.—If the curriculum, assessments, and model professional development programs recommended by the Panel are approved by the Board of Education, the Superintendent may submit them to the Secretary of Education as evidence of compliance with sections 1111, 1112, and 1119 of the Elementary and Secondary Education Act of 1965.

SEC. 2253. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Panel shall be comprised of the Superintendent and 6 other members appointed as follows:

(1) 2 members appointed by the Speaker of the House of Representatives.

(2) 2 members appointed by the majority leader of the Senate.

(3) 1 member appointed by the President.

(4) 1 member appointed by the Mayor who—

(A) is a parent of a minor student enrolled in a District of Columbia public school; and

(B) is active in a parent organization.

(b) EXPERTISE.—The members of the Panel appointed under paragraphs (1), (2), and (3) of subsection (a) shall be appointed from among individuals who are nationally recognized experts on education reform in the United States or who are nationally recognized experts on education in other nations, including the areas of curriculum, assessment, and teacher training.

(c) TERMS.—The term of service of each member of the Panel shall begin on the date of appointment of the member and shall end on the date of the termination of the Panel, unless the member resigns from the Panel or becomes incapable of continuing to serve on the Panel.

(d) CHAIRPERSON.—The members of the Panel shall select a chairperson from among them.

(e) DATE OF APPOINTMENT.—The members of the Panel shall be appointed not later than 30 days after the date of the enactment of this Act.

(f) COMMENCEMENT OF DUTIES.—The Panel may begin to carry out its duties under this part when 5 members of the Panel have been appointed.

(g) VACANCIES.—A vacancy on the Panel shall not affect the powers of the Panel, but shall be filled in the same manner as the original appointment.

SEC. 2254. CONSULTATION.

The Panel shall conduct its work in consultation with—

(1) officials of the District of Columbia public schools who have been identified by the Superintendent as having relevant responsibilities;

(2) the consortium established under section 2604(e); and

(3) any other persons or groups the Panel deems appropriate.

SEC. 2255. ADMINISTRATIVE PROVISIONS.

(a) MEETINGS.—The Panel shall meet on a regular basis, as necessary, at the call of the chairperson or a majority of its members.

(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(c) VOTING AND FINAL DECISION.—

(1) PROHIBITION ON PROXY VOTING.—No individual may vote, or exercise any other power of a member, by proxy.

(2) FINAL DECISIONS.—In making final decisions of the Panel with respect to the exercise of its duties and powers, the Panel shall operate on the principle of majority vote.

(d) PUBLIC ACCESS.—The Panel shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) and make available to the public, at reasonable cost, transcripts of such proceedings.

(e) NO PAY FOR PERFORMANCE OF DUTIES.—Members of the Commission may not be paid for the performance of duties vested in the Commission.

(f) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

SEC. 2256. GIFTS.

The Panel may, during the fiscal year ending September 30, 1996, accept donations of money, property, and personal services, except that no donations may be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of the Panel.

SEC. 2257. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Chairperson of the Panel, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, shall appoint a Director to be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule.

(b) APPOINTMENT AND PAY OF EMPLOYEES.—

(1) APPOINTMENT.—The Director may appoint not more than 6 additional employees to serve as staff to the Panel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(2) PAY.—The employees appointed under paragraph (1) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Panel may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Panel, the head of any department or agency of the United States may detail any of the personnel of such agency to the Panel to assist the Panel in its duties under this part.

SEC. 2258. TERMINATION OF PANEL.

The Panel shall terminate upon the completion of its work, but not later than August 1, 1996.

SEC. 2259. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $2,000,000 for fiscal year 1996. Such sum shall remain available until expended.

PART 2—DUTIES OF BOARD OF EDUCATION WITH RESPECT TO CORE CURRICULUM, ASSESSMENTS, AND PROMOTION GATES

SEC. 2261. DEVELOPMENT OF CORE CURRICULUM AND DISTRICT-WIDE ASSESSMENTS.

(a) IN GENERAL.—If the Board of Education does not approve both the core curriculum and the district-wide assessments recommended by the Panel under section 2252, the Superintendent shall develop or select, with the approval of the Board of Education, an alternative curriculum and alternative district-wide assessments that satisfy the requirements of paragraphs (1) and (2) of subsection (a), and subsection (b), of such section, except that the reference to the Panel in section 2252(b) shall be considered a reference to the Superintendent.

(b) DEADLINE.—If the Board of Education does not approve both the core curriculum

and the district-wide assessments recommended by the Panel under section 2252, the Superintendent shall meet the requirements of subsection (a) not later than August 1, 1996.

SEC. 2262. ASSESSMENTS.

(a) ADMINISTRATION OF ASSESSMENTS.—The Superintendent shall administer the assessments developed or selected under section 2252 or 2261 to students enrolled in the District of Columbia public schools and public charter schools on an annual basis.

(b) DISSEMINATION OF INFORMATION.—

(1) IN GENERAL.—Except as provided by paragraph (2), the information derived from the assessments administered under subsection (a) shall be made available, on an annual basis, to the appropriate congressional committees, the District of Columbia Council, the Mayor, parents, and other members of the public.

(2) LIMITATION.—To release any such information, the Superintendent shall comply with the requirements of section 444 of the General Education Provisions Act (20 U.S.C 1232g).

SEC. 2263. PROMOTION GATES.

(a) KINDERGARTEN THROUGH 4TH GRADE.—Not later than August 1, 1996, the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from kindergarten through and including the 4th grade.

(b) 5TH THROUGH 8TH GRADES.—Not later than August 1, 1997, the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from the 5th grade through and including the 8th grade.

(c) 9TH THROUGH 12TH GRADES.—Not later than August 1, 1998, the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from the 9th grade through and including the 12th grade.

(d) INTERIM DEADLINE.—Not later than February 1, 1996, the Superintendent shall designate the grade levels with respect to which promotion gates will be established and implemented.

Subtitle E—Per Capita District of Columbia Public School and Public Charter School Funding

SEC. 2301. ANNUAL BUDGETS FOR SCHOOLS.

(a) IN GENERAL.—For fiscal year 1997 and for each subsequent fiscal year, the Mayor shall make annual payments from the general fund of the District of Columbia in accordance with the formula established under subsection (b).

(b) FORMULA.—

(1) IN GENERAL.—The Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, shall establish a formula which determines the amount—

(A) of the annual payment to the Board of Education for the operating expenses of the District of Columbia public schools, which for purposes of this paragraph includes the operating expenses of the Board of Education and the Office of the Superintendent; and

(B) of the annual payment to each public charter school for the operating expenses of each such public charter school established in accordance with subtitle B.

(2) FORMULA CALCULATION.—Except as provided in paragraph (3), the amount of the annual payment under paragraph (1) shall be calculated by multiplying a uniform dollar amount used in the formula established under such paragraph by—

(A) the number of students calculated under section 2302 that are enrolled at District of Columbia public schools, in the case of the payment under paragraph (1)(A); or

(B) the number of students calculated under section 2302 that are enrolled at each public charter school, in the case of a payment under paragraph (1)(B).

(3) EXCEPTION.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the formula—

(A) to increase or decrease the amount of the annual payment to the District of Columbia public schools or each public charter school based on a calculation of—

(i) the number of students served by such schools in certain grade levels; and

(ii) the cost of educating students at such certain grade levels; and

(B) to increase the amount of the annual payment if the District of Columbia public schools or each public charter school serve a high number of students with special needs (as such term is defined under paragraph (4)).

(4) DEFINITION.—The Mayor and the District of Columbia Council shall develop a definition of the term ''students with special needs'' for purposes of carrying out this title.

SEC. 2302. CALCULATION OF NUMBER OF STUDENTS.

(a) SCHOOL REPORTING REQUIREMENT.—

(1) IN GENERAL.—Not later than September 15 of each year, beginning in fiscal year 1997, each District of Columbia public school and public charter school shall submit a report to the Mayor, District of Columbia Council, Board of Education, the Authority, and the eligible chartering authority that approved its charter, containing the information described in subsection (b).

(2) SPECIAL RULE.—Not later than April 1 of each year, beginning in 1997, each public charter school shall submit a report in the same form and manner as described in paragraph (1) to ensure accurate payment under section 2303(a)(2)(B)(ii).

(b) CALCULATION OF NUMBER OF STUDENTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall calculate the following:

(1) The number of students, including nonresident students, enrolled in kindergarten through grade 12 of the District of Columbia public schools and in public charter schools established in accordance with this title and the number of students whose tuition for enrollment in other schools is paid for by funds available to the District of Columbia public schools.

(2) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (1).

(3) The number of students, including nonresident students, enrolled in pre-school and pre-kindergarten in the District of Columbia public schools and in public charter schools established in accordance with this title.

(4) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (3).

(5) The number of full time equivalent adult students enrolled in adult, community, continuing, and vocational education programs in the District of Columbia public schools and in public charter schools established in accordance with this title.

(6) The amount of fees and tuition assessed and collected from resident and nonresident adult students described in paragraph (5).

(7) The number of students, including nonresident students, enrolled in non-grade level programs in District of Columbia public schools and in public charter schools established in accordance with this title.

(8) The amount of fees and tuition assessed and collected from nonresident students described in paragraph (7).

(c) ANNUAL REPORTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall prepare and submit to the Authority, the Mayor, the District of Columbia Council, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the most recent calculations made under subsection (b).

(d) AUDIT OF INITIAL CALCULATIONS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct an audit of the initial calculations described in subsection (b).

(2) CONDUCT OF AUDIT.—In conducting the audit, the Comptroller General of the United States—

(A) shall provide an opinion as to the accuracy of the information contained in the report described in subsection (b); and

(B) shall identify any material weaknesses in the systems, procedures, or methodology used by the Board of Education—

(i) in determining the number of students, including nonresident students, enrolled in the District of Columbia public schools and in public charter schools established in accordance with this title and the number of students whose tuition for enrollment in other school systems is paid for by funds available to the District of Columbia public schools; and

(ii) in assessing and collecting fees and tuition from nonresident students.

(3) SUBMISSION OF AUDIT.—Not later than 45 days after the date on which the Comptroller General of the United States receives the initial annual report from the Board of Education under subsection (c), the Comptroller General shall submit to the Authority, the Mayor, the District of Columbia Council, and the appropriate congressional committees the audit conducted under this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Comptroller General of the United States $75,000 for fiscal year 1996 for the purpose of carrying out this subsection.

SEC. 2303. PAYMENTS TO PUBLIC CHARTER SCHOOLS.

(a) IN GENERAL.—

(1) ESCROW FOR PUBLIC CHARTER SCHOOLS.—Except as provided in subsection (b), for any fiscal year, not later than 10 days after the date of enactment of the District of Columbia Appropriations Act for such fiscal year, the Mayor shall place in escrow an amount equal to the aggregate of the amounts determined under section 2301(b)(1)(B) for use only by District of Columbia public charter schools.

(2) TRANSFER OF ESCROW FUNDS.—

(A) 1997 INITIAL PAYMENT.—Beginning in 1997, not later than October 15 of each year, the Mayor shall transfer, by electronic funds transfer, an amount equal to 75 percent of the amount of the annual payment for a public charter school determined by using the formula established pursuant to section 2301(b) to a bank designated by each public charter school.

(B) 1997 FINAL PAYMENT.—

(i) Except as provided in clause (ii), not later than May 1 of each year beginning in 1997, the Mayor shall transfer the remainder of the annual payment for a public charter school in the same manner as the initial payment was made under subparagraph (A).

(ii) Beginning in 1997, not later than March 15, if the enrollment number of a public charter school has changed from the number reported to the Mayor, District of Columbia Council, Board of Education, the Authority, and the eligible chartering authority that approved its charter as required under section 2302(a)(2), the Mayor shall increase the payment in an amount equal to 50 percent of the amount provided for each student who

has enrolled without another student withdrawing or dropping out, or shall reduce the payment in an amount equal to 50 percent of the amount provided for each student who has withdrawn or dropped out of school without another student replacement.

(C) PRO RATA REDUCTION OR INCREASE IN PAYMENTS.—

(i) If the funds made available to the District of Columbia public schools for any fiscal year are insufficient to pay the full amount that each school is eligible to receive under this subtitle for such year, the Mayor shall ratably reduce such amounts for such year.

(ii) If additional funds become available for making payments under this subtitle for such fiscal year, amounts that were reduced under subparagraph (A) shall be increased on the same basis as such amounts were reduced.

(D) UNEXPENDED FUNDS.—Any funds that remain in the escrow account for public charter schools on September 30 of a fiscal year shall revert to the general fund of the District of Columbia.

(b) EXCEPTION FOR NEW SCHOOLS.—

(1) AUTHORIZATION.—There are authorized to be appropriated $200,000 for any fiscal year for the purpose of carrying out this subsection.

(2) DISBURSEMENT TO MAYOR.—The Secretary of the Treasury shall make available and disburse to the Mayor, not later than August 1 of each of the years 1996 through 2000, such funds as have been appropriated under paragraph (1).

(3) ESCROW.—The Mayor shall place in escrow, for use by public charter schools, any sum disbursed under paragraph (2) that has not yet been paid under paragraph (4).

(4) PAYMENTS TO SCHOOLS.—The Mayor shall pay to public charter schools described in paragraph (5), in accordance with this subsection, any sum disbursed under paragraph (2).

(5) SCHOOLS DESCRIBED.—The schools referred to in paragraph (4) are public charter schools that—

(A) did not operate as public charter schools during any portion of the fiscal year preceding the fiscal year for which funds are authorized to be appropriated under paragraph (1); and

(B) operated as public charter schools during the fiscal year for which funds are authorized to be appropriated under paragraph (1).

(6) FORMULA.—

(A) 1996.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in fiscal year 1996 shall be calculated by multiplying $6,300 by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school; and

(B) 1997 THROUGH 2000.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in any of fiscal years 1997 through 2000 shall be calculated by multiplying the uniform dollar amount used in the formula established under 2301(b) by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school.

(7) PAYMENT TO SCHOOLS.—

(A) TRANSFER.—On September 1 of each of the years 1996 through 2000, the Mayor shall transfer, by electronic funds transfer, the amount determined under paragraph (6) for each public charter school from the escrow account established under subsection (a) to a bank designated by each such school.

(B) PRO RATA AND REMAINING FUNDS.—Subparagraphs (C) and (D) of subsection (a)(2) shall apply to payments made under this subsection.

Subtitle F—School Facilities Repair and Improvement

PART 1—SCHOOL FACILITIES

SEC. 2351. AGREEMENT FOR TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Not later than December 31, 1995, the Administrator of the General Services Administration and the Superintendent shall enter into a Memorandum of Agreement or Understanding (referred to in this subtitle as the ''Agreement'') authorizing, to the extent provided in this subtitle, the Administrator to provide technical assistance to the District of Columbia public schools regarding school facilities repair and improvements, including contracting for and supervising the repair and improvements of such facilities and the coordination of such efforts.

(b) AGREEMENT PROVISIONS.—The Agreement shall include the following:

(1) GENERAL AUTHORITY.—Provisions that give the Administrator authority—

(A) to supervise and direct District of Columbia public school personnel responsible for public school facilities repair and improvements;

(B) to develop, coordinate and implement a systemic and comprehensive facilities revitalization program, taking into account the ''Preliminary Facilities Master Plan 2005'' (prepared by the Superintendent's Task Force on Education Infrastructure for the 21st Century) to repair and improve District of Columbia public school facilities, including a list of facilities and renovation schedule that prioritizes facilities to be repaired and improved;

(C) to accept private goods and services for use by District of Columbia public schools, in consultation with the nonprofit corporation referred to in section 2603;

(D) to recommend specific repair and improvement projects in District of Columbia public school facilities by members and units of the National Guard and military reserve, consistent with section 2351(b)(1)(B); and

(E) to access all District of Columbia public school facilities and any records or documents regarding such facilities.

(2) COOPERATION.—Assurances by the Administrator and the Superintendent to cooperate with each other, and with the nonprofit corporation referred to in section 2603, in any way necessary, to ensure implementation of the Agreement.

(c) DURATION OF AGREEMENT.—The Agreement shall remain in effect until the agency designated pursuant to section 2352(a)(2) assumes responsibility for the District of Columbia public school facilities but shall terminate not later than 24 months after the date that the Agreement is signed, whichever is earlier.

SEC. 2352. FACILITIES REVITALIZATION PROGRAM.

(a) PROGRAM.—Not later than 24 months after the date that the Agreement is signed, the Mayor and the District of Columbia Council shall—

(1) in consultation with the Administrator, the Authority, the Board of Education, and the Superintendent, design and implement a facilities repair, maintenance, improvement, and management program; and

(2) designate a new or existing agency or authority to administer such program to repair, improve, and maintain the physical condition and safety of District of Columbia public school facilities.

(b) PROCEEDS.—Such management program shall include provisions that—

(1) identify short-term funding for capital and maintenance of such facilities, which may include retaining proceeds from the sale or lease of a District of Columbia public school facility; and

(2) identify and designate long-term funding for capital and maintenance of such facilities.

(c) IMPLEMENTATION.—Upon implementation of such program, the agency or authority created or designated pursuant to subsection (a)(2) shall assume authority and responsibility for repair, maintenance, improvement, and management of District of Columbia public schools.

SEC. 2353. DEFINITIONS.

For purposes of this subtitle, the following terms have the following meanings:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the General Services Administration.

(2) FACILITIES.—The term ''facilities'' means buildings, structures, and real property.

SEC. 2354. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 1996 and 1997, $2,000,000 to the District of Columbia public schools for use by the Administrator to carry out this subtitle.

PART 2—WAIVERS

SEC. 2361. WAIVERS.

(a) IN GENERAL.—All District of Columbia fees, all requirements found in the document ''The District of Columbia Public Schools Standard Contract Provisions'' published by the District of Columbia public schools for use with construction maintenance projects, shall be waived, for purposes of repair and improvement of the District of Columbia public schools for a period of 24 months after the date of enactment of this Act.

(b) LIMITATION.—

(1) WAIVER APPLICATION.—A waiver under subsection (a) shall apply only to contractors, subcontractors, and any other groups, entities, or individuals who donate materials and services to the District of Columbia public schools.

(2) INSURANCE REQUIREMENTS.—Nothing in this section shall be construed to waive the requirements for a contractor to maintain adequate insurance coverage.

SEC. 2362. APPLICATION FOR PERMITS.

An application for a permit during the 24-month period described in section 2311(a), required by the District of Columbia government for the repair or improvement of a District of Columbia public school shall be acted upon not later than 20 days after receipt of the application by the respective District of Columbia permitting authorities.

Subtitle G—Department of Education ''D.C. Desk''

SEC. 2401. ESTABLISHMENT.

There shall be established within the Office of the Secretary of the Department of Education a District of Columbia Technical Assistance Office (in this subtitle referred to as the ''D.C. Desk'').

SEC. 2402. DIRECTOR FOR DISTRICT OF COLUMBIA COORDINATED TECHNICAL ASSISTANCE.

The D.C. Desk shall be administered by a Director for District of Columbia Coordinated Technical Assistance. The Director shall be appointed by the Secretary and shall not be paid at a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

SEC. 2403. DUTIES.

The Director of the D.C. Desk shall—

(1) coordinate with the Superintendent a comprehensive technical assistance strategy by the Department of Education that supports the District of Columbia public schools first year reforms and long-term plan described in section 2101;

(2) identify all Federal grants for which the District of Columbia public schools are eligible to apply to support implementation of its long term plan;

(3) identify private and public resources available to the District of Columbia public schools that are consistent with the long-term plan described in section 2101; and

(4) provide additional technical assistance as assigned by the Secretary which supports reform in the District of Columbia public schools.

Subtitle H—Residential School

SEC. 2451. PLAN.

(a) IN GENERAL.—The Superintendent may develop a plan to establish a residential school for the 1997–1998 school year.

(b) REQUIREMENTS.—If developed, the plan for the residential school shall include, at a minimum—

(1) options for the location of the school, including renovation or building of a new facility;

(2) financial plans for the facility, including annual costs to operate the school, capital expenditures required to open the facility, maintenance of facilities, and staffing costs; and

(3) staff development and training plans.

SEC. 2452. USE OF FUNDS.

Funds under this subtitle shall be used for—

(1) planning requirements as described in section 2451; and

(2) capital costs associated with the start-up of a residential school, including the purchase of real and personal property and the renovation of existing facilities.

SEC. 2453. FUTURE FUNDING.

The Superintendent shall identify, not later than December 31, 1996, in a report to the Mayor, City Council, the Authority, the Appropriations Committees of the House of Representatives and the Senate, the House Governmental Reform Committee, the House Economic and Educational Opportunities Committee, and the Senate Labor and Human Resources Committee and the Governmental Affairs Committee, non-Federal funding sources for operation of the residential school.

SEC. 2454. GIFTS.

The Superintendent may accept donations of money, property, and personal services for purposes of the establishment and operation of a residential school.

SEC. 2455. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the District $2,000,000 for fiscal year 1996 to carry out this subtitle for initial start-up expenses of a residential school in the District of Columbia, of which not more than $100,000 may be used to carry out section 2451.

Subtitle I—Progress Reports and Accountability

SEC. 2501. DISTRICT OF COLUMBIA COUNCIL REPORT.

Not later than 60 days after the date of the enactment of this Act, the Chairman of the District of Columbia Council shall submit to the appropriate congressional committees a report describing legislative and other actions the District of Columbia Council has taken or will take to facilitate the implementation of the reforms described in section 2502.

SEC. 2502. SUPERINTENDENT'S REPORT ON REFORMS.

Not later than August 1, 1996, the Superintendent shall submit to the appropriate congressional committees, the Board of Education, the Mayor, and the District of Columbia Council a progress report that includes the following:

(1) The status of the approval by the Board of Education of the core curriculum—

(A) recommended by the Panel under section 2252(a)(1); or

(B) selected or developed by the Superintendent under section 2261.

(2) The status of the approval by the Board of Education of the district-wide assessments for measuring student achievement—

(A) recommended by the Panel under section 2252(a)(2); or

(B) selected or developed by the Superintendent under section 2261.

(3) The status of the establishment and implementation of promotion gates under section 2263.

(4) Identification of strategies to assist students who do not meet promotion gate criteria.

(5) The status of the implementation of a policy that provides rewards and sanctions for individual schools based on student performance on district-wide assessments.

(6) A description of the activities carried out under the program established under section 2604(e).

(7) The status of implementation by the Board of Education, after consultation with the Superintendent and unions (including unions that represent teachers and unions that represent principals) of a policy for performance-based evaluation of principals and teachers.

(8) A description of how the private sector partnership described in subtitle K is working collaboratively with the Board of Education and the Superintendent.

(9) The status of implementation of policies developed by the Superintendent and the Board of Education that establish incentive pay awards for staff of District of Columbia public schools who meet annual performance goals based on district-wide assessments at individual schools.

(10) A description of how staffing decisions have been revised to delegate staffing to individual schools and transfer additional decisionmaking with respect to budgeting to the individual school level.

(11) A description of, and the status of implementation of, policies adopted by the Board of Education that require competitive appointments for all positions.

(12) The status of implementation of policies regarding alternative teacher certification requirements.

(13) The status of implementation of testing requirements for teacher licensing renewal.

(14) The status of efforts to increase the involvement of families in the education of students, including—

(A) the development of family resource centers;

(B) the expansion of Even Start programs described in part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

(C) the development and implementation of policies to increase parental involvement in education.

(15) A description of, and the status of implementation of, a policy to allow District of Columbia public schools to be used after school hours as community centers, including the establishment of at least one prototype pilot project in one school.

(16) A description of, and the status of implementation of, a policy to increase the participation of tutors and mentors for students, beginning not later than the 8th grade.

(17) A description of the status of implementation of the agreement with the Administrator of the General Services Administration under part 1 of subtitle E.

(18) A description of the status of the District of Columbia public school central office budget and staffing reductions from the level at the end of fiscal year 1995 and a review of the market-based provision of services provided by the central office to schools.

(19) The development by the Superintendent of a system of parental choice among District of Columbia public schools where per pupil funding follows the student (''Public School Vouchers'') and adoption by the Board of Education.

(20) The status of the processing of public charter school petitions submitted to the Board of Education in accordance with subtitle B.

(21) The status of the revision and implementation by the Board of Education of the discipline policy for the District of Columbia public schools in order to ensure a safe, disciplined environment conducive to learning.

Subtitle J—Low-Income Scholarships

SEC. 2551. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—There is authorized to be established a private, nonprofit corporation, to be known as the ''District of Columbia Scholarship Corporation'' (referred to in this subtitle as the ''Corporation''), which is not an agency or establishment of the United States Government.

(2) DUTIES.—The Corporation shall have the responsibility and authority to administer, publicize, and evaluate the District of Columbia Scholarship Program, and to determine student and school eligibility.

(3) CONSULTATION.—The Corporation shall exercise its authority in a manner consistent with maximizing educational choices and opportunities for the maximum number of interested families, and in consultation with other school scholarship programs in the District of Columbia.

(4) APPLICATION OF PROVISIONS.—The Corporation shall be subject to the provisions of this Act, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, 29–501 et seq.).

(5) RESIDENCE.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident thereof.

(b) ORGANIZATION AND MANAGEMENT, BOARD OF DIRECTORS.—

(1) MEMBERSHIP.—

(A) IN GENERAL.—The Corporation shall have a Board of Directors (referred to in this subtitle as the ''Board''), comprised of 7 members with 6 members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives and the majority leader of the Senate.

(B) HOUSE NOMINATIONS.—The President shall appoint 3 of the members from a list of 9 individuals nominated by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint 3 members from a list of 9 individuals nominated by the majority leader of the Senate in consultation with the minority leader of the Senate.

(D) DEADLINE.—The Speaker of the House of Representatives and majority leader of the Senate shall submit their nominations to the President not later than 30 days after the date of the enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor shall appoint 1 member not later than 60 days after the date of the enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the 6 members of the Board in the 30-day period described in subparagraph (A), the nominees of the Speaker of the House of Representatives and of the Senate, together with the appointee of the Mayor, shall serve as an interim Board of Directors with all the powers and other duties of the Board described in this subtitle, until the President makes the appointments as described in this subsection.

(2) POWERS.—All powers of the Corporation shall vest in and be exercised under the authority of its Board of Directors.

(3) ELECTIONS.—Members of the Board annually shall elect 1 of the members to be chairperson.

(4) RESIDENCY.—All members appointed to the Board must be residents of the District of Columbia at the time of appointment and while serving on the Board.

(5) NONEMPLOYEE.—No member of the Board may be an employee of the United States Government or the District of Columbia government when appointed or during tenure on the Board, unless the individual is on a leave of absence from such a position while serving on the Board.

(6) INCORPORATION.—The members of the initial Board of Directors shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code 29–501 et seq.).

(7) GENERAL TERM.—The term of office of each member shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) CONSECUTIVE TERM.—No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each. A partial term shall be considered as 1 full term. Any vacancy on the Board shall not affect its power, but shall be filled in a manner consistent with this subtitle.

(9) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee except as salary or reasonable compensation for services.

(10) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(11) NO OFFICERS.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States.

(12) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this subtitle, shall be entitled to a stipend. Such stipend shall be at the rate of $150 per day for which the Board member has been officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of $5,000.

(c) OFFICERS AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Corporation shall have an Executive Director, and such other staff, as may be appointed by the Board for terms and at rates of compensation to be fixed by the Board.

(2) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation at an annual rate of pay which exceeds the basic rate of pay in effect from time to time for level IV of the Executive Schedule under section 5312 of title 5, United States Code.

(3) CITIZENSHIP.—No individual other than a citizen of the United States may be a member of the Board of Directors, or staff of the Corporation.

(4) SERVICE.—All officers and employees shall serve at the pleasure of the Board.

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State, and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services of, consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this subtitle.

(e) FINANCIAL MANAGEMENT AND RECORDS.—

(1) AUDITS.—The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants. The audits shall be conducted at the place where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person conducting the audit.

(2) REPORT.—The report by each such independent audit shall be included in the annual report to Congress required by section 2602.

SEC. 2552. FUNDING.

(a) FUND.—There is hereby established in the Treasury a fund that shall be known as the District of Columbia Scholarship Fund, to be administered by the Secretary of the Treasury.

(b) DISBURSEMENT.—The Secretary of the Treasury shall make available and disburse to the corporation, at the beginning of each of fiscal years 1996 through 2000, such funds as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year in which such disbursement is to be made.

(c) AVAILABILITY.—Funds authorized to be appropriated under this subtitle shall remain available until expended.

(d) USES.—Funds authorized to be appropriated under this subtitle shall be used by the Corporation in a prudent and financially responsible manner, solely for scholarships, contracts, and administrative costs.

(e) AUTHORIZATION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Fund—

(A) $5,000,000 for fiscal year 1996; and

(B) $7,000,000 for fiscal year 1997, and $10,000,000 for each of fiscal years 1998 through 2000.

(2) LIMITATION.—Not more than $500,000 may be used in any fiscal year by the Corporation for any purpose other than assistance to students.

SEC. 2553. SCHOLARSHIPS AUTHORIZED.

(a) IN GENERAL.—The District of Columbia Scholarship Corporation established under section 2501 is authorized in accordance with this subtitle to award scholarships to students in grades K–12—

(1) who are District of Columbia residents; and

(2) whose families are at or below 185 percent of the Federal poverty guidelines updated annually in the Federal Register by the Department of Health and Human Services under authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(b) USE OF SCHOLARSHIP.—A scholarship may be used only for—

(1) the cost of the tuition of a private or independent school located within the geographic boundaries of the District of Columbia or the cost of the tuition of public, private, or independent school located within Montgomery County, Maryland; Prince Georges County, Maryland; Arlington County, Virginia; Alexandria City, Virginia; Falls Church City, Virginia; or Fairfax County, Virginia; or

(2) the cost of fees and other expenses for instructional services provided to students on school grounds outside of regular school hours or the cost of transportation for a student enrolled in a District of Columbia public school, public charter school, or independent or private school participating in the tuition scholarship program.

(c) NOT SCHOOL AID.—A scholarship shall be considered assistance to the student and shall not be considered assistance to the school.

SEC. 2554. ELIGIBILITY.

(a) IN GENERAL.—A student who is entitled to receive a public school education in the District of Columbia and who meets the requirements of section 2553(a) is eligible for a scholarship under subsections (c) and (d) of section 2555.

(b) PRIORITY IN YEAR ONE.—In fiscal year 1996, priority shall be given to students currently enrolled in a District of Columbia public school or preparing to enter kindergarten in 1996.

(c) SUBSEQUENT PRIORITY.—In subsequent fiscal years, priority shall be given to scholarship recipients from the preceding year.

SEC. 2555. SCHOLARSHIPS.

(a) AWARDS.—From the funds made available under this subtitle, the Corporation shall award scholarships and make payments, on behalf of the student, to participating schools as described in section 2559.

(b) NOTIFICATION.—Each school that enrolls scholarship students shall notify the Corporation—

(A) not later than 10 days after the date that a student is enrolled, of the names, addresses, and grade level of each scholarship student to the Corporation; and

(B) not later than 10 days after the date of the withdrawal of any scholarship student.

(c) TUITION SCHOLARSHIP AMOUNT.—

(1) BELOW POVERTY LEVEL.—For a student whose family income is at or below the poverty level, a tuition scholarship amount may not exceed the lesser of—

(A) the cost of a school's tuition; or

(B) $3,000 in 1996 with such amount adjusted in proportion to changes in the Consumer Price Index of all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(2) ABOVE POVERTY LEVEL.—For a student whose family income is greater than the poverty level, but not more than 185 percent above the poverty level, a tuition scholarship amount may not exceed the lesser of—

(A) 50 percent of the cost of a school's tuition; or

(B) $1,500 in 1996 with such amount adjusted in proportion to changes in the Consumer Price Index of all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(d) FEE OR TRANSPORTATION SCHOLARSHIP AMOUNT.—The fee or transportation scholarship amount may not exceed the lesser of—

(1) fees for instructional services provided to students on school grounds outside of regular school hours or the costs of transportation for students enrolled in the District of Columbia public schools, public charter schools, or independent or private schools participating in the tuition scholarship program; or

(2) $500 in fiscal year 1996 with such amount adjusted in proportion to the changes in the Consumer Price Index of all urban consumers published by the Department of Labor for each of the fiscal years 1997 through 2000.

(e) PROPORTION OF DIFFERENT TYPES OF SCHOLARSHIPS.—In each year, the Corporation shall ensure that the number of scholarships awarded for tuition and the number awarded for fees or transportation shall be equal, to the extent practicable.

(f) FUNDING SHORTFALL.—If, after the District of Columbia Scholarship Corporation determines the total number of eligible applicants for an academic year surpasses the

amount of funds available in a fiscal year to fund all awards for such academic year, a random selection process shall be used to determine which eligible applicants receive awards.

(g) EXCEPTION.—Subsection (e) shall not apply to individuals receiving scholarship priority described in subsections (b) and (c) of section 2554.

SEC. 2556. SCHOOL ELIGIBILITY FOR TUITION SCHOLARSHIPS.

(a) APPLICATION.—A school that desires to accept tuition scholarship students for a school year shall file an application with the Corporation by July 1 of the preceding school year, except that in fiscal year 1996, schools shall file such applications by such date as the Corporation shall designate for such purpose. In the application, the school shall—

(1) certify that it has operated during the current school year with not less than 25 students,

(2) assure that it will comply with all applicable requirements of this subtitle; and

(3) provide the most recent financial audit, completed not earlier than 3 years before the date such application is filed, from an independent certified public accountant using generally accepted auditing standards.

(b) ELIGIBILITY CERTIFICATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 60 days after receipt of such information, the Corporation shall certify the eligibility of a school to participate in the tuition scholarship program.

(2) CONTINUATION.—Eligibility shall continue in subsequent years unless revoked as described in subsection (d).

(3) EXCEPTION FOR 1996.—In fiscal year 1996 after receipt of the information described in subsection (a), the Corporation shall certify the eligibility of a school to participate in the tuition scholarship program at the earliest practicable date.

(c) NEW SCHOOLS.—

(1) IN GENERAL.—A school that did not operate in the preceding academic year may apply for a 1-year provisional certification of eligibility to participate in the tuition scholarship program for a single school year by providing to the Corporation not later than July 1 of the preceding calendar year for which such school intends to begin operations—

(A) a list of the organization's board of directors;

(B) letters of support from not less than 10 members of the community;

(C) a business plan;

(D) intended course of study;

(E) assurances that it will begin operations with not less than 25 students; and

(F) assurances that it will comply with all applicable requirements of this subtitle.

(2) CERTIFICATION.—Not later than 60 days after the date of receipt of the information referred to in paragraph (1), the Corporation shall certify in writing the school's provisional eligibility for the tuition scholarship program unless good cause exists to deny certification.

(3) DENIAL OF CERTIFICATION.—If certification or provisional certification is denied for participation in the tuition scholarship program, the Corporation shall provide a written explanation to the applicant school of the reasons for such decision.

(d) REVOCATION OF ELIGIBILITY.—

(1) IN GENERAL.—Upon written petition from the parent of a tuition scholarship student or on the Corporation's own motion, the Corporation may, after notice and hearing, revoke a school's certification of eligibility for tuition scholarships for the subsequent school year for good cause, including a finding of a pattern of violation of program requirements described in section 2557(a).

(2) EXPLANATION.—If the eligibility of a school is revoked, the Corporation shall provide a written explanation for its decision to such school.

SEC. 2557. TUITION SCHOLARSHIP PARTICIPATION REQUIREMENTS FOR INDEPENDENT AND PRIVATE SCHOOLS.

(a) INDEPENDENT AND PRIVATE SCHOOL REQUIREMENTS.—Independent and private schools participating in the tuition scholarship program shall—

(1) not discriminate on the basis of race, color, or national origin, or on the basis of a student's disabilities if the school is equipped to provide an appropriate education;

(2) abide by all applicable health and safety requirements of the District of Columbia public schools;

(3) provide to the Corporation not later than June 30 of each year the most recent financial audit completed not earlier than 3 years before the date the application is filed from an independent certified public accountant using generally accepted auditing standards;

(4) abide by all local regulations in effect for independent or private schools;

(5) provide data to the Corporation as set forth in section 2562, and conform to tuition requirements as set forth in section 2555; and

(6) charge tuition scholarship recipients the same tuition amount as other students who are residents of the District of Columbia and enrolled in the same school.

(b) COMPLIANCE.—The Corporation may require documentation of compliance with the requirements of subsection (a), but neither the Corporation nor any governmental entity may impose additional requirements upon independent and private schools as a condition of participation.

(c) WITHDRAWAL FROM PROGRAM.—Schools may withdraw from the tuition scholarship program at any time, refunding to the Corporation the proportion of any scholarship payments already received for the remaining days in the school year on a pro rata basis. If a school withdraws during an academic year, it shall permit scholarship students to complete the year at their own expense.

SEC. 2558. CHILDREN WITH DISABILITIES.

Nothing in this subtitle shall affect the rights of students or the obligations of the District of Columbia public schools under the Individuals with Disabilities Education Act.

SEC. 2559. PAYMENTS FOR TUITION SCHOLARSHIPS.

(a) IN GENERAL.—

(1) PROPORTIONAL PAYMENT.—The Corporation shall make tuition scholarship payments to participating schools not later than October 15 of each year equal to half the total value of the scholarships awarded to students enrolled at such school, and half of such amount not later than January 15 of the following calendar year.

(2) PRO RATA AMOUNTS FOR STUDENT WITHDRAWL.—

(A) BEFORE PAYMENT.—If a student withdraws before a tuition scholarship payment is made, the school shall receive a pro rata amount based on the school's tuition for the number of days the student was enrolled.

(B) AFTER PAYMENT.—If a student withdraws after a tuition scholarship payment is made, the school shall refund to the Corporation the proportion of any scholarship payments already received for the remaining days of the school year on a pro rata basis. Such refund shall occur not later than 30 days after the date of the withdrawal of a student.

(b) FUND TRANSFERS.—The Corporation shall make tuition scholarship payments to participating schools by electronic funds transfer. If such an arrangement is not available, the school shall submit an alternative proposal to the Corporation for approval.

SEC. 2560. TUITION SCHOLARSHIP APPLICATION PROCEDURES.

The Corporation shall implement a schedule and procedures for processing applications for the tuition scholarship program that includes a list of eligible schools, distribution of information to parents and the general public, and deadlines for steps in the application and award process.

SEC. 2561. TUITION SCHOLARSHIP REPORTING REQUIREMENTS.

(a) IN GENERAL.—A school enrolling tuition scholarship students shall report not later than July 30 of each year in a manner prescribed by the Corporation, the following data:

(1) Standardized test scores, if any, for scholarship students.

(2) Grade advancement for scholarship students.

(3) Disciplinary actions taken with respect to scholarship students.

(4) Graduation, college admission test scores, and college admission rates, if applicable for scholarship students.

(5) Types and amounts of parental involvement required for all families.

(6) Student attendance for scholarship students.

(7) General information on curriculum, programs, facilities, credentials of personnel, and disciplinary rules.

(b) CONFIDENTIALITY.—No personal identifiers may be used in the body of such report except that the Corporation may request such confidential information solely for the purpose of verification.

SEC. 2562. FEE OR TRANSPORTATION SCHOLARSHIP PROCEDURES AND CRITERIA.

(a) POLICIES AND PROCEDURES.—The Corporation shall implement policies and procedures and criteria for administering scholarships for use with providers approved by the Corporation either for the cost of fees for instructional services provided to students on school grounds outside of regular school hours or for the costs of transportation for students enrolled in District of Columbia public schools, public charter schools, or independent or private schools participating in the tuition scholarship program.

(b) INFORMATION DISSEMINATION.—The Corporation shall distribute information describing the policies and procedures and criteria developed pursuant to subsection (a), using the most efficient and practicable methods available, to potential applicants and other interested parties within the geographic boundaries of the District of Columbia.

SEC. 2563. PROGRAM APPRAISAL.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Corporation shall provide for an evaluation of the tuition scholarship program, including—

(1) comparison of test scores between tuition scholarship students and District of Columbia public school students of similar background, including by income level;

(2) comparison of graduation rates between tuition scholarship students and District of Columbia public school students of similar background, including by income level; and

(3) satisfaction of parents of scholarship students.

(b) REPORT TO CONGRESS.—Not later than September 1 of each year, the Corporation shall submit a progress report on the scholarship program to the appropriate congressional committees.

SEC. 2564. JUDICIAL REVIEW.

(a) IN GENERAL.—

(1) JURISDICTION.—The United States District Court for the District of Columbia shall

have jurisdiction over any legal challenges to the tuition scholarship program and shall provide expedited review.

(2) PROTECTABLE INTERESTS.—Parents and children shall be considered to have a separate protectable interest and entitled to intervene as defendants in any such action.

(3) TIMELY REVIEW.—The court shall render a prompt decision.

(b) APPEALS.—If the tuition scholarship program or any part thereof is enjoined or ruled invalid, the decision is directly appealable to the United States Supreme Court.

Subtitle K—Partnerships With Business

SEC. 2601. PURPOSE.

It is the purpose of this title to leverage private sector funds utilizing initial Federal investments in order to provide students and teachers within the District of Columbia public schools and public charter schools with access to state-of-the-art educational technology, to establish a regional job training and employment center, to strengthen workforce preparation initiatives for students within the District of Columbia public schools and public charter schools, and to coordinate private sector investments in carrying out this title.

SEC. 2602. DUTIES OF THE SUPERINTENDENT OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

Not later than 45 days after the date of the enactment of this Act, the Superintendent of the District of Columbia public schools—

(1) shall provide a grant to a private, nonprofit corporation that meets the eligibility criteria under section 2603 for the purposes of carrying out the duties under section 2604; and

(2) shall establish a nonprofit organization in accordance with the District of Columbia Nonprofit Corporation Act for the purpose of carrying out the duties under section 2605.

SEC. 2603. ELIGIBILITY CRITERIA FOR PRIVATE, NONPROFIT CORPORATION.

A private, nonprofit corporation shall be eligible to receive a grant under section 2602(1) if the corporation is a national business organization which is incorporated in the District of Columbia and which—

(1) has a board of directors which includes members who are also chief executive officers of technology-related corporations involved in education and workforce development issues;

(2) has extensive practical experience with initiatives that link business resources and expertise with education and training systems;

(3) has experience in working with State and local educational entities throughout the United States on the integration of academic studies with workforce preparation programs; and

(4) has a nationwide structure through which additional resources can be leveraged and innovative practices disseminated.

SEC. 2604. DUTIES OF THE PRIVATE, NONPROFIT CORPORATION.

(a) DISTRICT EDUCATION AND LEARNING TECHNOLOGIES ADVANCEMENT COUNCIL.—

(1) ESTABLISHMENT.—The corporation shall establish a council to be known as the ''District Education and Learning Technologies Advancement Council'' or ''DELTA Council'' (in this title referred to as the ''council'').

(2) MEMBERSHIP.—

(A) IN GENERAL.—The corporation shall appoint members to the council. An individual shall be appointed as a member to the council on the basis of the commitment of the individual, or the entity which the individual is representing, to providing time, energy, and resources to the council.

(B) COMPENSATION.—Members of the council shall serve without compensation.

(3) DUTIES.—The council—

(A) shall advise the corporation in the duties of the corporation under subsections (b) through (d) of this section; and

(B) shall assist the corporation in leveraging private sector resources for the purpose of carrying out such duties of the corporation.

(b) ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY.—

(1) IN GENERAL.—The corporation, in conjunction with the Superintendent, students, parents, and teachers, shall establish and implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools established in accordance with this Act.

(2) TECHNOLOGY ASSESSMENT.—

(A) IN GENERAL.—In establishing and implementing the strategies under paragraph (1), the corporation, not later than 90 days after the date of the enactment of this Act, shall provide for an assessment of the current availability of state-of-the-art educational technology within the District of Columbia public schools and public charter schools established in accordance with this Act.

(B) CONDUCT OF ASSESSMENT.—In providing for the assessment under subparagraph (A), the corporation—

(i) shall provide for on-site inspections of the state-of-the-art educational technology within a minimum sampling of District of Columbia public schools and public charter schools established in accordance with this Act; and

(ii) shall ensure proper input from students, parents, teachers, and other school officials through the use of focus groups and other appropriate mechanisms.

(C) RESULTS OF ASSESSMENT.—The corporation shall ensure that the assessment carried out under this paragraph provides, at a minimum, necessary information on state-of-the-art educational technology within the District of Columbia public schools and public charter schools established in accordance with this Act, including—

(i) the extent to which typical public schools within the District of Columbia have access to such state-of-the-art educational technology and training for such technology;

(ii) how such schools are using such technology;

(iii) the need for additional technology and the need for infrastructure for the implementation of such additional technology;

(iv) the need for computer hardware, software, training, and funding for such additional technology or infrastructure; and

(v) the potential for computer linkages among District of Columbia public schools and public charter schools.

(3) SHORT-TERM TECHNOLOGY PLAN.—

(A) IN GENERAL.—Based upon the results of the technology assessment under paragraph (2), the corporation shall develop a 3-year plan that includes goals, priorities, and strategies for obtaining the resources necessary to implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools established in accordance with this Act.

(B) IMPLEMENTATION.—The corporation, in conjunction with schools, students, parents, and teachers, shall implement the plan developed under subparagraph (A).

(4) LONG-TERM TECHNOLOGY PLAN.—Prior to the completion of the implementation of the short-term plan under paragraph (3), the corporation shall develop a plan under which the corporation will continue to coordinate the donation of private sector resources for maintaining the continuous improvement and upgrading of state-of-the-art educational technology within the District of Columbia public schools and public charter schools established in accordance with this Act.

(c) DISTRICT EMPLOYMENT AND LEARNING CENTER.—

(1) ESTABLISHMENT.—The corporation shall establish a center to be known as the ''District Employment and Learning Center'' or ''DEAL Center'' (in this title referred to as the ''center''), which shall serve as a regional institute providing job training and employment assistance.

(2) DUTIES.—

(A) JOB TRAINING AND EMPLOYMENT ASSISTANCE PROGRAM.—The center shall establish a program to provide job training and employment assistance in the District of Columbia.

(B) CONDUCT OF PROGRAM.—In carrying out the program established under subparagraph (A), the center—

(i) shall provide job training and employment assistance to youths who have attained the age of 18 but have not attained the age of 26, who are residents of the District of Columbia, and who are in need of such job training and employment assistance for an appropriate period not to exceed 2 years;

(ii) shall work to establish partnerships and enter into agreements with appropriate governmental agencies of the District of Columbia to serve individuals participating in appropriate Federal programs, including programs under the Job Training Partnership Act (29 U.S.C. 1501 et seq.), the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.);

(iii) shall conduct such job training, as appropriate, through a consortia of colleges, universities, community colleges, and other appropriate providers in the District of Columbia metropolitan area;

(iv) shall design modular training programs that allow students to enter and leave the training curricula depending on their opportunities for job assignments with employers; and

(v) shall utilize resources from businesses to enhance work-based learning opportunities and facilitate access by students to work-based learning and work-experience through temporary work assignments with employers in the District of Columbia metropolitan area.

(C) COMPENSATION.—The center may provide compensation to youths participating in the program under this paragraph for part-time work assigned in conjunction with training. Such compensation may include needs-based payments and reimbursement of expenses.

(d) WORKFORCE PREPARATION INITIATIVES.—

(1) IN GENERAL.—The corporation shall establish initiatives with the District of Columbia public schools and public charter schools established in accordance with this Act, appropriate governmental agencies, and businesses and other private entities, to facilitate the integration of rigorous academic studies with workforce preparation programs in District of Columbia public schools and public charter schools.

(2) CONDUCT OF INITIATIVES.—In carrying out the initiatives under paragraph (1), the corporation shall, at a minimum, actively develop, expand, and promote the following programs:

(A) Career academy programs in secondary schools, as established in certain District of Columbia public schools, which provide a ''school-within-a-school'' concept, focusing on career preparation and the integration of the academy programs with vocational and technical curriculum.

(B) Programs carried out in the District of Columbia that are funded under the School-

to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(e) PROFESSIONAL DEVELOPMENT PROGRAM FOR TEACHERS AND ADMINISTRATORS.—

(1) ESTABLISHMENT OF PROGRAM.—The corporation shall establish a consortium consisting of the corporation, teachers, school administrators, and a consortium of universities located in the District of Columbia (in existence on the date of the enactment of this Act) for the purpose of establishing a program for the professional development of teachers and school administrators employed by the District of Columbia public schools and public charter schools established in accordance with this Act.

(2) CONDUCT OF PROGRAM.—In carrying out the program established under paragraph (1), the consortium established under such paragraph, in consultation with the World Class Schools Panel and the Superintendent, shall, at a minimum, provide for the following:

(A) Professional development for teachers which is consistent with the model professional development programs for teachers under section 402(a)(3), or is consistent with the core curriculum developed by the Superintendent under section 411(a)(1), as the case may be, except that in fiscal year 1996, such professional development shall focus on curriculum for elementary grades in reading and mathematics that have been demonstrated to be effective for students from low-income backgrounds.

(B) Private sector training of teachers in the use, application, and operation of state-of-the-art technology in education.

(C) Training for school principals and other school administrators in effective private sector management practices for the purpose of site-based management in the District of Columbia public schools and training in the management of public charter schools established in accordance with this Act.

(f) OTHER PRIVATE SECTOR ASSISTANCE AND COORDINATION.—The corporation shall coordinate private sector involvement and voluntary assistance efforts in support of repairs and improvements to schools in the District of Columbia, including—

(1) private sector monetary and in-kind contributions to repair and improve school building facilities consistent with section 601;

(2) the development of proposals to be considered by the Superintendent for inclusion in the long-term reform plan to be developed pursuant to section 101, and other proposals to be submitted to the Superintendent, the Board of Education, the Mayor, the District of Columbia Council, the Authority, the Administrator of the General Services Administration, or the Congress; and

(3) a program of rewards for student accomplishment at participating local businesses.

SEC. 2605. JOBS FOR D.C. GRADUATES PROGRAM.

(a) IN GENERAL.—The nonprofit organization established under section 2602(2) shall establish a program, to be known as the ''Jobs for D.C. Graduates Program'', to assist the District of Columbia public schools and public charter schools established in accordance with this Act in organizing and implementing a school-to-work transition system with a priority on providing assistance to at-risk youths and disadvantaged youths.

(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the nonprofit organization, consistent with the policies of the nationally-recognized Jobs for America's Graduates, Inc.—

(1) shall establish performance standards for such program;

(2) shall provide ongoing enhancement and improvements in such program;

(3) shall provide research and reports on the results of such program; and

(4) shall provide pre-service and in-service training of all staff.

SEC. 2606. MATCHING FUNDS.

The corporation shall, to the extent practicable, provide funds, an in kind contribution, or a combination thereof, for the purpose of carrying out the duties of the corporation under section 2604, as follows:

(1) For fiscal year 1996, $1 for every $1 of Federal funds provided under this title for section 2604.

(2) For fiscal year 1997, $3 for every $1 of Federal funds provided under this title for section 2604.

(3) For fiscal year 1998, $5 for every $1 of Federal funds provided under this title for section 2604.

SEC. 2607. REPORT.

The corporation shall prepare and submit to the Congress on a quarterly basis, or, with respect to fiscal year 1996, on a biannual basis, a report which shall contain—

(1) the activities the corporation has carried out, including the duties of the corporation described in section 2604, for the 3-month period ending on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period ending on the date of the submission of the report;

(2) an assessment of the use of funds or other resources donated to the corporation;

(3) the results of the assessment carried out under section 2604(b)(2); and

(4) a description of the goals and priorities of the corporation for the 3-month period beginning on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period beginning on the date of the submission of the report.

SEC. 2608. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) DELTA COUNCIL; ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY; WORKFORCE PREPARATION INITIATIVES; OTHER PRIVATE SECTOR ASSISTANCE AND COORDINATION.—There are authorized to be appropriated to carry out subsections (a), (b), (d) and (f) of section 2604 $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(2) DEAL CENTER.—There are authorized to be appropriated to carry out section 2604(c) $2,000,000 for each of the fiscal years 1996, 1997, and 1998.

(3) PROFESSIONAL DEVELOPMENT PROGRAM FOR TEACHERS AND ADMINISTRATORS.—There are authorized to be appropriated to carry out section 2604(e) $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(4) JOBS FOR D.C. GRADUATES PROGRAM.—There are authorized to be appropriated to carry out section 2605—

(A) $2,000,000 for fiscal year 1996; and

(B) $3,000,000 for each of the fiscal years 1997 through 2000.

(b) AVAILABILITY.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 2609. TERMINATION OF FEDERAL SUPPORT; SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.

(a) TERMINATION OF FEDERAL SUPPORT.—The authority under this title to provide assistance to the corporation or any other entity established pursuant to this title (except for assistance to the nonprofit organization established under section 2602(2) for the purpose of carrying out section 2605) shall terminate on October 1, 1998.

(b) SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.—It is the sense of the Congress that—

(1) the activities of the corporation under section 2604 should continue to be carried out after October 1, 1998, with resources made available from the private sector; and

(2) the corporation should provide oversight and coordination of such activities after such date.

Subtitle L—Parent Attendance at Parent-Teacher Conferences

SEC. 2651. ESTABLISHMENT.

(a) POLICY.—Notwithstanding any other provision of law, the Mayor of the District of Columbia is authorized to develop and implement a policy requiring all residents with children attending a District of Columbia public school system to attend and participate in at least 1 parent-teacher conference every 90 days during the school year.

(b) WITHHOLD BENEFITS.—The Mayor is authorized to withhold payment of benefits received under the program under part A of title IV of the Social Security Act as a condition of participation in these parent-teacher conferences.

SEC. 2652. SUBMISSION OF PLAN.

If the Mayor elects to utilize the powers granted under section 2651, the Mayor shall submit to the Secretary of Health and Human Services a plan for implementation. The plan shall include—

(1) plans to administer the program;

(2) plans to conduct evaluations on the success or failure of the program;

(3) plans to monitor the participation of parents;

(4) plans to withhold and reinstate benefits; and

(5) long-term plans for the program.

SEC. 2653. REPORTS TO CONGRESS.

Beginning on October 1, 1996 and each year thereafter, the District shall annually report to the Secretary of Health and Human Services and to the Congress on the progress and results of the program described in section 2651 of this Act.

This Act may be cited as the ''District of Columbia Appropriations Act, 1996''.

The PRESIDING OFFICER. Pursuant to that same order, the Senate insists on its amendment and requests a conference with the House and authorizes the Chair to appoint conferees.

EDIBLE OIL REGULATORY REFORM ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 436 just received from the House.

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

The clerk will state the bill by title.

A bill (H.R. 436) to require the head of any Federal agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing certain regulations, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3044

(Purpose: To make minor and technical changes, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. CHAFEE, for himself, Mr. BAUCUS, Mr. PRESSLER, Mr. LUGAR, and Mr. HARKIN, proposes an amendment numbered 3044.

Mr. DOLE. 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 2, line 8, after ''to'' insert ''the transportation, storage, discharge, release, emission, or disposal of''.

On page 2, line 9, strike ''any'' and insert ''that''.

On page 2, line 18, strike ''such'' and insert ''that''.

On page 2, line 22, strike ''different'' the first place it occurs.

On page 2, line 23, strike ''as provided'' and insert ''based on considerations''.

On page 3, line 12, strike ''carrying oil in bulk as cargo or cargo residue''.

On page 3, line 13, after ''carried'' insert ''as cargo''.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3044) was agreed to.

Mr. CHAFEE. Mr. President, the Senate recently received from the House H.R. 436, the Edible Oil Regulatory Reform Act. The bill would amend the Oil Pollution Act of 1990, or OPA–90. As chairman of the Environment and Public Works Committee, which has exclusive jurisdiction over OPA–90, I support the Senate's passage of H.R. 436 by unanimous consent without delay.

As a member of the Environment and Public Works Committee at the time the committee reported the bill that became OPA–90, I am well acquainted with the statute. As many of us will recall, the Congress enacted OPA–90 in the aftermath of the catastrophic *Exxon Valdez* oilspill in Prince William Sound, AK.

One of the key elements of OPA–90 requires all vessels to demonstrate a certain minimum level of financial responsibility to cover the costs of cleanup and damages in the event of an oilspill. The intent behind this requirement is to ensure that an entity that discharges oil into our natural environment pay for the costs and damages arising from the spill—not the U.S. taxpayer. This intent remains sound and should continue to inform the application of the statute.

In passing OPA–90, however, Congress did not intend to abandon the use of common sense. As the act currently stands, there is no distinction made in the financial responsibility requirements for oil-carrying vessels, regardless of the kind of oil being carried. Therefore, a vessel carrying sunflower oil is held to the same requirements under OPA–90 as a carrier of deep crude.

H.R. 436 simply recognizes that vegetable oils and animal fats are different from petroleum oils. Most important, they are different in ways that make it less likely that a spill of vegetable oil or animal fat will cause the same kind of environmental damage as would a petroleum oilspill. For example, vegetable oils and animal fats contain none of the toxic components of petroleum oil.

This is not to suggest that a spill of vegetable oil or animal fat will have no adverse environmental impacts. Experience has shown to the contrary, especially in the case of the Blue Earth River spill in Minnesota in the mid-1960's. Here it is important to note that H.R. 436 would not provide an exemption for carriers of vegetable oil or animal fats. They still would be subject to a mandatory minimum financial responsibility requirement under OPA–90.

Thus, H.R. 436 will lend more rationality to the application of OPA–90 while maintaining the fundamental integrity of the act's purpose and approach. I commend my colleagues in the House for recognizing an opportunity to improve the implementation of an environmental statute.

Finally, as chairman of the Environment and Public Works Committee, let me say that I appreciate the willingness of all Senators to expedite action on this bill. Without unanimous consent, H.R. 436 would have been referred to the Committee on Environment and Public Works. My review of the bill has convinced me that it is a straightforward, commonsense piece of legislation on which committee hearings are unnecessary and to which I can lend my support.

Mr. PRESSLER. Mr. President, I urge my colleagues to support the passage of H.R. 436, the Edible Oil Regulatory Reform Act. Passage of this measure is long overdue.

The problem this measure would address is how Federal agencies regulate the shipment of edible oils, as compared with toxic oils. Action is needed because agencies currently do not make a distinction between these two kinds of oils. Unless we pass H.R. 436, we face a potential loss in agricultural exports and diminished farm income.

This issue is not new to this body. Last year, I joined Senator LUGAR and Senator HARKIN in sponsoring similar legislation that passed the Senate but did not become law.

As a result, earlier this year, I joined Senator LUGAR and 14 other Senators in introducing S. 679, the Senate counterpart to H.R. 436. By passing H.R. 436, we immediately can clear this bill for the President's signature.

The bill is simple and very straightforward. Under H.R. 436, regulatory agencies would be required to establish separate standards governing shipments of edible oilseeds and shipments of toxic oils, such as petroleum. Presently, Federal agencies enforce the Oil Pollution Act of 1990 in a manner that treats animal fats and vegetable oils in the same way as toxic oils.

Mr. President, this kind of enforcement was never congressional intent. The bill we are considering today would state clearly to Federal agencies that edible oils are not to be treated in the same manner as toxic oils. However, let me be clear. Under no circumstance would this bill change the Oil Pollution Act of 1990 as it relates to toxic oils.

This bill has strong support. I ask unanimous consent that a list of organizations supporting the measure be printed in the RECORD at this point.

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

ORGANIZATIONS SUPPORTING ANIMAL FAT/VEGETABLE OIL AMENDMENT

American Bakers Association.
American Crop Protection Association.
American Feed Industry Association.
American Frozen Food Institute.
American Meat Institute.
American Soybean Association.
Beer Institute.
Biscuit and Cracker Manufacturers' Association.
Chicago Board of Trade.
Chocolate Manufacturers Association.
Corn Refiners Association.
Flavor & Extract Manufcturers' Association.
Food Industry Environmental Council.
Food Marketing Institute.
Fragrance Material Association.
Grocery Manufacturers of America.
Independent Bakers Association.
Institute of Shortening and Edible Oils.
Intenational Dairy Foods Association.
National American Wholesale Grocers Assn.
National Association of Margarine Manufacturers.
National Broiler Council.
National Cattlemen's Association
National Confectioners Association.
National Corn Growers Association.
National Cotton Council of America.
National Cottonseed Products Association.
National Council of Farmer Cooperatives.
National Fish Meal & Oil Association.
National Fisheries Institute.
National Food Processors Association.
National Grain and Feed Association.
National Grain Trade Council.
National Industrial Transportation League.
National Institute of Oilseed Products.
National Oilseed Processors Association.
National Pasta Association.
National Pork Producers Council.
National Renderers Association.
National Soft Drink Association.
National Sunflower Association.
National Turkey Federation.
North American Export Grain Association.
Snack Food Association.
U.S. Canola Association.

Mr. PRESSLER. The need for H.R. 436 is compelling. Without action, we are diminishing inadvertently agricultural exports. In addition, existing regulations could have a chilling effect on the development of new crops and new uses of crop production.

Farm exports are nearing all time highs. The future for oilseeds is equally bright. However, current enforcement of the Oil Pollution Act works against this progress. It has become clearly evident that existing regulations would seriously impact exports of U.S. agricultural commodities, especially vegetable oils and animal fats. Unless we pass this bill, the U.S. animal fat and vegetable oil industries are faced with lost export sales of more than $125 million. It is a critical time for oilseed crushers, who are operating at peak capacity with the new oilseed crop. Losing export markets could lead to an oversupply situation that could cut the

value of the U.S. soybean crop by more than $1 billion.

New crops and new industrial uses for agricultural raw materials mean greater demand for farm commodities. New industrial crops allow farmers to diversify their farming systems and income sources, improve crop rotations and reduce reliance on government commodity programs.

Jobs and income would be generated as new crops are taken from the farm gate to the processors and on to the wholesalers and retailers. The predominant post-farming activity would be in the transportation, manufacturing, distribution and support sectors of farm states.

New crops to grow in South Dakota are likely to be edible oilseeds. The most likely candidates are crambe, industrial rapeseed and canola. They could compliment South Dakota's production of sunflowers, which is a major industry in my state. Production in 1994 was valued at nearly $150 million. Most of the sunflower production in South Dakota is for oil, and at least 40 percent of the sunflower production in South Dakota is exported.

In summary, Mr. President, there is a great need for this bill to become law. The bill simply would put common sense into existing regulations and would help those regulations come into line with Congressional intent. And the winners out of all this are our farmers and ranchers. I urge passage of H.R. 436.

Mr. LUGAR. Mr. President, I am pleased to support passage of legislation to encourage regulatory common sense. Senators PRESSLER, HARKIN, and others joined me in introducing the Senate version of the Edible Oil Regulatory Reform At (S. 679) on April 5. I am pleased that the House approved its version of this bill (H.R. 436) on October 10, and urge my colleagues to support Senate passage.

This legislation will correct two problems: First, the regulation of edible oils in a manner similar to toxic oils like petroleum, and second, the requirement that Certifications of financial Responsibility [COFR] accompanying vessels carrying edible oils equal those of vessels carrying toxic oils. This bill is similar to legislation which passed Congress last year, but was not given final approval.

In response to the *Exxon Valdez* oil-spill in 1990, Congress passed the Oil Pollution Act of 1990, which requires several Federal agencies to enhance regulatory activities with regard to the shipping and handling of hazardous oils.

In 1993, the Transportation Department proposed regulations to guard against oil spills, and require response plans if spills did occur. DOT proposed to treat vegetable oils—that is, salad oils—in the same way as petroleum. Among other things, salad oils would have been officially declared hazardous materials, with all the regulatory requirements and extra costs which that designation entails.

This was a classic example of regulatory overreaching. Vegetable oil, of course, is different from petroleum. Vegetable oil processors thought it entirely appropriate that they undertake response plans to guard against major spills.

The industry did not argue that they should be example from regulation. The industry argue that regulators should take into account obvious differences—in toxicity, biodegradability, environmental persistence and other factors—between vegetable oils on the one hand, and toxic petroleum oils on the other.

Secretary Pena eventually agreed with us and prompted modification of DOT's position. However, he does not have jurisdiction over all agencies with a role in regulating oil spills. More recently, the industry has been working with other agencies which have a role in regulating oils and ensuring adequate financial responsibility in the event of a spill.

No one is any longer proposing to call salad dressing or mayonnaise hazardous material, but agencies are requiring that spill response plans for vegetable oils be quite similar to those for petroleum.

The most recent problem arose in December, 1994, when Coast Guard regulations subjected vessels carrying vegetable oil to the same standard of liability and financial responsibility as supertankers carrying petroleum. On December 28, 1994, the Coast Guard began requiring the same standard—a $1,200 per gross ton or $10 million of financial responsibility—on vessels carrying vegetable oil and petroleum oil in U.S. waters or calling at U.S. ports. On July 1, similar standards were phased in on barges operating on U.S. navigable waterways.

Prior to December 28, a COFR requirement of $150 per gross ton applied to all vessels regardless of the hazardous nature or toxicity of the cargo. The vegetable oil industry does not seek a return to this earlier standard, but seeks regulation under a $600 per gross ton COFR requirement that Coast Guard regulations apply to vessels carrying other commodities. It is worth noting that this new financial responsibility standard for edible oil would be four times the COFR required on toxic petroleum oils prior to December 28, 1994.

Application of the most stringent standard to vessels carrying vegetable oil adds to the cost of transporting U.S. vegetable oil to foreign markets. The additional costs of these burdensome regulations are passed back to farmers in reduced prices for commodities. Consumers may also bear a burden in higher food prices. In addition, there have been instances in 1995 where this unjustified additional cost has made U.S. vegetable oil uncompetitive and has resulted in lost exports.

H.R. 436 would not exempt vegetable oil shipments from COFR requirements or regulation. It would only apply a more appropriate standard of financial responsibility to vegetable oil, similar to that applied to vessels carrying other commodities.

The scientific data collected to date indicate that the animal fats and vegetable oils industry has an excellent spill history justifying differentiation of these edible materials from toxic oils. Specifically, these products account for less than one half of one percent of all oil spills in the U.S. In addition, most spills of these products are less than 1,000 gallons.

The industry seeks a separate category for vegetable oils. This is as much because of scientific differences in the oils as it is for economic reasons. There is no reason why non-toxic vegetable oils must be in the same category as toxic oils.

Second, the industry seeks response requirements that recognize the different characteristics of animal fats and vegetable oils within this separate category. A separate category without separate response requirements reflecting different toxicity and biodegradability is nothing more than a hollow gesture.

The Senate and House of Representatives last year passed virtually identical legislation on different legislative vehicles to ensure that both of these objectives are accomplished. Under H.R. 436, the underlying principles of the Oil Pollution Act of 1990 would remain unchanged with the language to require differentiation of animal fats and vegetable oils from other oils. The House approved this language twice last year as part of H.R. 4422 and H.R. 4852. The Senate passed the bill as S. 2559. Since final action on this legislation was not completed in the last Congress, it is before the Senate again.

This bill does not tell the Coast Guard or any other agency what it must put into regulations. The legislation simply says that in rulemaking under the Federal Water Pollution Control Act or the Oil Pollution Act of 1990, these agencies must differentiate between vegetable oils and animal fats on one hand, and other oils including petroleum on the other.

The bill specifies that the agencies should consider differences in the physical, chemical, biological or other properties and the effects on human health and the environment effects of these oils.

This bill does not exempt vegetable oils from the Oil Pollution Act of 1990. It is a modest effort to encourage common sense in an area of regulation that has not always been marked by that characteristic. I hope my colleagues will support the legislation.

Mr. HARKIN. Mr. President, I am pleased that we have been able to work out the details on this legislation to clear the way for its passage today. It seems that we have been working on this issue for quite a long time, and it is gratifying to reach this resolution. Certainly this bill will provide a significant measure of regulatory relief to

those in the food and agriculture industry who have been affected by the imposition of regulations on the storage, transportation, and handling of edible oils that are really designed for hazardous petroleum oils.

Senator LUGAR and I introduced legislation to resolve this instance of unnecessary regulation a year and a half ago. Unfortunately, we were not able to get the measure passed in the same bill by both the House and Senate last fall, although it did pass both houses in different bills. I was pleased to join Senator LUGAR again this year in reintroducing the legislation along with Senator PRESSLER. I am also grateful for the help provided by Senator CHAFEE and Senator BAUCUS in working out modifications to the bill to ensure that it will adequately address the problems we are seeking to solve without potentially creating unintended or unforeseen problems.

This legislation is simply designed to bring common sense to Federal regulations involving the transportation, handling, and storage of edible oils. Common sense tells us regulations pertaining to these substances need not, and should not, be as stringent as those applicable to other oils, such as petroleum oils or other toxic oils, which pose a far more significant level of health, safety, and environmental risk in the event of a spill, discharge, or mishandling. Animal fats and vegetable oils are essential components of food products that we consume every day. The scientific evidence indicates they are not toxic in the environment, are essential nutritional components, are biodegradable, and are not persistent in the environment.

Regrettably, a commonsense approach to regulation of animal fats and vegetable oils has been more difficult to achieve than one might think, as the experience under implementation of the Oil Pollution Act of 1990 demonstrates. Although some of the problems have been worked out, there still exists in the industry substantial uncertainty whether regulators will properly differentiate edible fats and oils from petroleum and other toxic oils. This legislation will resolve the uncertainty and eliminate the costs associated with this kind of unnecessary regulation.

The bill will not exempt edible oils from regulation, but will only require that regulators differentiate animal fats and vegetable oils from other oils, including petroleum oil, considering differences in physical, chemical, biological, and other properties, and in the effects on human health and the environment, of the classes of oils. The bill will do no more than alleviate the substantial threat of overregulation of animal fats and vegetable oils in ways that clearly could not have been intended by Congress. It will bring some reasonableness and clarity to issues that are now characterized by confusion and uncertainty.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read the third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

So the bill (H.R. 436), as amended, was passed.

BILL READ FOR THE FIRST TIME—H.R. 1833

Mr. DOLE. Mr. President, I inquire of the chair if H.R. 1833 has arrived from the House of Representatives?

The PRESIDING OFFICER. Yes, it has.

Mr. DOLE. Therefore, I ask for its first reading.

The bill (H.R. 1833) was read the first time.

Mr. DOLE. I now ask for its second reading, and I object on behalf of the Democratic leader.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk to be read a second time following the next adjournment of the Senate.

DAVID J. WHEELER FEDERAL BUILDING

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 217, S. 1097.

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

The clerk will state the bill by title.

A bill (S. 1097) to designate the Federal building located at 1550 Dewey Avenue, Baker City, Oregon, as the ''David J. Wheeler Federal Building,'' 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. DOLE. 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. 1097) was passed, as follows:

S. 1097

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF DAVID J. WHEELER FEDERAL BUILDING.

The Federal building located at 1550 Dewey Avenue, Baker City, Oregon, shall be known and designated as the ''David J. Wheeler Federal Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the ''David J. Wheeler Federal Building''.

ORDER TO PROCEED TO H.R. 1883 ON NOVEMBER 7, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to H.R. 1883, the ban on partial birth abortions on Tuesday, November 7, at 11 a.m.

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

MESSAGES FROM THE HOUSE

At 11:36 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions.

At 5:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2546. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes.

The message also announced that the Speaker appoints the following Members as additional conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996: From the Committee on Commerce, for consideration of title XVI of the House bill, and subtitle B of title VII of the Senate amendment, and modifications committed to conference: Mr. HASTERT and Mr. GREENWOOD.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2099) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for fiscal year ending September 30, 1996, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. LEWIS, Mr. DELAY, Mrs. VUCANOVICH, Mr. WALSH, Mr. HOBSON, Mr. KNOLLENBERG, Mr. FRELINGHUYSEN, Mr. NEUMANN, Mr. LIVINGSTON, Mr. STOKES, Mr. MOLLOHAN, Mr. CHAPMAN, Ms. KAPTUR, and Mr. OBEY as the managers of the conference on the part of the House.

MEASURES COMMITTED

Pursuant to section 312(b) of the Congressional Budget Control and Impoundment Act, the following bill was committed as indicated:

S. 1372. A bill to amend the Social Security Act to increase the earnings limit, and for other purposes; to the Committee on Finance.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions.

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–1568. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice relative to renewing a lease; to the Committee on Armed Services.

EC–1569. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding transactions involving exports to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–1570. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–1571. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on transportation user fees; to the Committee on Commerce, Science, and Transportation.

EC–1572. A communication from the Administrator of the Federal Aviation Administration, the Department of Transportation, transmitting, pursuant to law, the report on the Final Environmental Impact Statement (EIS) on the Effects of Implementation of the Expanded East coast Plan (EECP) Over the State of New Jersey; to the Committee on Commerce, Science, and Transportation.

EC–1573. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the 1995 status of the Nation's Surface Transportation System; to the Committee on the Environment and Public Works.

EC–1574. A communication from the Comptroller General, transmitting, pursuant to law, reports and testimony for the month of Septmember 1995; to the Committee on Governmental Affairs.

EC–1575. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report on the efforts to promote the use of frequent traveler programs by federal employees; to the Committee on Governmental Affairs.

EC–1576. A communication from the members of the United States of America Railroad Retirement Board, transmitting, pursuant to law, a report relative to referrals, matters transmitted, hearings conducted, and actions to collect civil penalties for fiscal year 1995; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 288. A bill to abolish the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes (Rept. No. 104–166).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1139. A bill to amend the Merchant Marine Act, 1936, and for other purposes (Rept. No. 104–167).

By Mr. ROTH, from the Committee on Finance, with an amendment:

S. 1318. An original bill to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

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. MCCONNELL:

S. 1378. A bill to combat public corruption, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMPSON:

S. 1379. A bill to make technical amendments to the Fair Debt Collection Practices Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. D'AMATO:

S. 1380. A bill to require forfeiture of counterfeit access devices, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S. 1381. A bill to amend the Internal Revenue Code of 1986 to allow individuals who are involuntarily unemployed to withdraw funds from individual retirement accounts and other qualified retirement plans without incurring a tax penalty; to the Committee on Finance.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. 1382. A bill to extend the Middle East Peace Facilitation Act; considered and passed.

By Mr. STEVENS:

S. 1383. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Westfjord*; to the Committee on Commerce, Science, and Transportation.

S. 1384. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *God's Grace II*; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX (for himself, Mr. CONRAD, Mr. DORGAN, Mr. KERREY, Mr. DASCHLE, and Mr. HOLLINGS):

S. 1385. A bill to amend title XVIII of the Social Security Act to provide for coverage of periodic colorectal screening services under part B of the Medicare program; to the Committee on Finance.

By Mr. BURNS (for himself and Mr. SHELBY):

S. 1386. A bill to provide for soft-metric conversion, and for other purposes; to the Committee on Governmental Affairs.

By Mr. NUNN:

S. 1387. A bill to provide for innovative approaches for homeownership opportunity, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

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

S.J. Res. 42. Joint resolution designating the Civil War Center at Louisiana State University as the United States Civil War Center, making the center the flagship institution for planning the sesquicentennial commemoration of the Civil War, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL:

S. 1378. A bill to combat public corruption, and for other purposes; to the Committee on the Judiciary.

THE ANTI-CORRUPTION ACT OF 1995

Mr. MCCONNELL. Mr. President, I rise to introduce the Anti-Corruption Act of 1995, a bill which will strengthen the ability of Federal law enforcement officials to combat election fraud and public corruption by State and local officials. A few excerpts from recent news articles will demonstrate the need for this bill:

The San Diego Union-Tribune writes on October 1 of recent reports,

> [T]hat cats and dogs are on the state's voter rolls, that God is registered to vote in Hollywood, and that a San Francisco man who died in 1982 has consistently voted for the past decade.

The St. Louis Post-Dispatch reports on the same day of the city comptroller who, a few days earlier, pleaded guilty to—

> [I]ncome tax evasion in exchange for dismissal of charges that he conspired with others to defraud voters in the comptroller's election two years ago.

The Dallas Morning News reports on September 30, of citizens in rural Costilla County, CO, who,

> [S]purred an investigation by the state attorney general that led to a raft of indictments and guilty pleas for election fraud [and p]rompted a second investigation by the attorney general that found fraud and embezzlement by county officials.

The Hartford Courant reports on August 28, of new efforts to combat voter fraud because of irregularities, including,

> [T]wenty-seven felons who voted in 1994 in the race for the 2nd District Congressional seat.

It is no wonder the American people become more disgusted with our system every day. Allegations of vote buying and cries of ''voting irregularities'' pervade every close election.

We would like to think that the losing candidates are only motivated by sour grapes. But too often, investigations turn up cases where a dead, nonetheless patriotic, American manages to roll out of his eternal slumber to do his or her civic duty before the polls close.

Americans' faith is further eroded by daily scandals involving public officials reported in their local paper. This past summer, officials formally closed a nearly 5-year corruption investigation that rocked my own State of Kentucky. Operation BOPTROT resulted in more than a dozen convictions of State legislators, appointed State officials and lobbyists. The BOPTROT sting operation involved bribery and influence peddling at the highest level of Kentucky State government. Although the BOPTROT investigation was closed in early August, FBI officials made it clear that the State has not yet been cleansed of public corruption: ''Public corruption remains the FBI's No. 1 priority in Kentucky,'' according to the lead FBI investigator.

A central problem in preventing corruption in elections and government operations is a lack of Federal guidelines defining what is illegal. Another problem is the jurisdiction over this illegal activity. This bill I am introducing aims at correcting both of these problems.

The bill simply states that if anyone engages in any activity to deprive people of the honest services of their public officials, they will be fined and face a possible 10-year sentence in Federal prison. This includes rigging elections, intimidating voters, buying votes, and bribing officials.

And, this bill makes every act of elections fraud—at every level of government—a Federal offense. It gives Federal prosecutors the jurisdictional authority they need to investigate and prosecute entrenched local corruption.

We have made dramatic changes to the voter registration laws; while it is easier to register and vote, it is also easier to commit election fraud. This bill is needed to discourage those who would seek to defraud the government and abuse the public trust.

Moreover, as we ask the States to assume more responsibility for providing government services, we must ensure that we possess the tools for weeding out and punishing corrupt practices.

The bill also addresses public corruption as it relates to drug trafficking. The facilitation by public officials of drug trafficking would be classified as a class B felony under title 18 of the United States Code.

And, anyone attempting to bribe or actually bribing a public official for help in drug trafficking would be guilty of a class B felony.

Drug use and drug trafficking are back on the rise. It is a lucrative business. Aiding and abetting it can offer a huge stipend to public officials, worth many times their government salaries. This bill would make drug stings sting a lot more—for the pushers and for corrupt politicians.

Mr. President, I have spoken out repeatedly over the years on these issues and on this specific piece of legislation. In past years, this bill, included as an amendment to other pieces of anticrime legislation, has passed the Senate with overwhelming, bipartisan support. But it has never made it to the final conference report.

The bill has also had wide support among the U.S. attorneys, who would be on the front lines prosecuting these crimes. In fact, two former U.S. attorneys in Kentucky have endorsed this bill.

Mr. President, I ask unanimous consent that their letters in support of this legislation be printed in the RECORD.

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

ROBINSON & MCELWEE,
Lexington, KY, October 26, 1995.

Hon. MITCH MCCONNELL,
Russell Senate Building, Washington, DC.

DEAR SENATOR MCCONNELL: I am writing in support of the Anti-Corruption Act you are introducing. As you know, Kentucky has been victimized by public corruption at the highest levels of state government. My first-hand experience in Operation BOPTROT, resulting in the conviction of almost two dozen officials, made me aware of the gaps in federal law and jurisdiction over influence peddling and corruption.

Your bill would provide federal law enforcement officials with the necessary tools to fight these plagues on the taxpayers. And, it would send a message to public officials everywhere that there will be grave consequences for failing to uphold the public trust.

The American people grow more and more cynical about our government and much of the blame can be laid at those who breach the confidence placed in them by the voters. Your bill will help restore the faith citizens should have in our great system.

I am confident your bill will be widely supported among your colleagues and I wish you every success in speedy passage.

Sincerely,

KAREN K. CALDWELL.

JOSEPH M. WHITTLE,
Prospect, KY, October 16, 1995.

Hon. MITCH MCCONNELL,
Russell Senate Building, Washington, DC.

DEAR SENATOR MCCONNELL: I am pleased to write in support of your Anti-Corruption Act, a bill you have introduced in previous Congresses and which has been adopted by a majority of the Senate.

Since the bill addresses election fraud and corruption by government officials, it is of particular importance to Kentucky in view of the 5-year Operation BOPTROT effort. My involvement in Operation BOPTROT made me aware that current federal law is not fully adequate to deal with public corruption. This bill will give federal law enforcement agents the power and authority to vigorously fight election fraud, influence peddling and public corruption.

Most of all, your bill will help restore confidence the American people should have in their government and public servants.

I wish you success in getting the bill passed. I know it has enjoyed wide support in the past, and I am confident that the bill will continue to have support among your colleagues.

Respectfully,

JOSEPH M. WHITTLE.

Mr. MCCONNELL. Mr. President, I am confident this bill will gain the support of the Attorney General.

I am certain that in our renewed effort to gain the public trust, this legislation will be received with resounding approval. I urge my colleagues to support this much-needed 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. 1378

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 ''Anti-Corruption Act of 1995''.

SEC. 2. PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 226. Public corruption

''(a) STATE AND LOCAL GOVERNMENT.—

''(1) HONEST SERVICES.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of the State or political subdivision shall be fined under this title, imprisoned not more than 10 years, or both.

''(2) FAIR AND IMPARTIAL ELECTIONS.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election through one or more of the following means, or otherwise—

''(A) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

''(B) through paying or offering to pay any person for voting;

''(C) through the procurement or submission of voter registrations that contain false material information, or omit material information;

''(D) through the filing of any report required to be filed under Federal or State law regarding an election campaign that contains false material information or omits material information; or

''(E) through engaging in intimidating, threatening, or deceptive conduct, with the intent to prevent or unlawfully discourage any person from voting for the candidate of that person's choice, registering to vote, or campaigning for or against a candidate,

shall be fined under this title, imprisoned not more than 10 years, or both.

''(3) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in paragraphs (1) and (2) are that—

''(A) for the purpose of executing or concealing a scheme or artifice described in paragraph (1) or (2) or attempting to do so, a person—

''(i) places in any post office or authorized depository for mail matter, any matter or thing to be sent or delivered by the Postal Service, deposits or causes to be deposited any matter or thing to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

''(ii) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

''(iii) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

''(iv) uses or causes the use of any facility in interstate or foreign commerce;

''(B) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed affect, interstate or foreign commerce;

''(C) in the case of an offense described in paragraph (1), the honest services of the official or employee relate to a governmental office of a State or political subdivision of a

State which receives funds derived from an Act of Congress in an amount not less than $10,000 during the 12-month period immediately preceding or following the date of the offense; or

''(D) in the case of an offense described in paragraph (2), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have any authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

''(b) FEDERAL GOVERNMENT.—Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or a person who has been selected to be a public official shall be fined under this title, imprisoned not more than 10 years, or both.

''(c) OFFENSE BY AN OFFICIAL AGAINST AN EMPLOYEE OR OFFICIAL.—

''(1) CRIMINAL OFFENSE.—Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or of a State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal a scheme or artifice described in subsection (a) or (b), shall be fined under this title, imprisoned not more than 5 years, or both.

''(2) CIVIL ACTION.—(A) Any employee or official of a State or political subdivision of a State who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against because of lawful acts done by the employee or official as a result of a violation of this section or because of actions by the employee on behalf of himself or herself or others in furtherance of prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action in any court of competent jurisdiction and obtain all relief necessary to make the employee or official whole, including—

''(i) reinstatement with the same seniority status that the employee or official would have had but for the violation;

''(ii) the amount of backpay;

''(iii) a penalty of two times the amount of backpay;

''(iv) interest on the actual amount of backpay; and

''(v) compensation for any special damages sustained as a result of the violation, including reasonable litigation costs and reasonable attorney's fees.

''(B) To obtain recovery under subsection (c)(2)(A) (iii) or (v) against a State or political subdivision, the employee or individual bringing the action shall establish by a preponderance of evidence that any violation of this section was—

''(i) the result of widespread violations within the State or political subdivision; or

''(ii) the result of conduct authorized by a senior official within the State or political subdivision.

''(C) In cases in which a State or political subdivision is sued and found liable for recovery under subsection (c)(2)(A) (iii) or (v), the State or political subdivision may bring an action for contribution for such recovery from any employee or official whose action led to the recovery under subsection (c)(2)(A) (iii) or (v).

''(D) An employee or official shall not be afforded relief under subparagraph (A) if the employee or official participated in the violation of this section with respect to which relief is sought.

''(E)(i) A civil action or proceeding authorized by this paragraph shall be stayed by a court upon certification of an attorney for the Government that prosecution of the action or proceeding may adversely affect the interests of the Government in a pending criminal investigation or proceeding.

''(ii) The attorney for the Government shall promptly notify the court when a stay may be lifted without such adverse effects.

''(d) DEFINITIONS.—As used in this section—

''(1) the term 'official' includes—

''(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

''(B) any person acting or pretending to act under color of official authority; and

''(C) any person who has been nominated, appointed, or selected to be an official or who has been officially informed that he or she will be so nominated, appointed, or selected;

''(2) the term 'person acting or pretending to act under color of official authority' includes a person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official;

''(3) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201 and include any person acting or pretending to act under color of official authority; and

''(4) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States.''.

(b) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

''226. Public corruption.''.

(2) Section 1961(1) of title 18, United States Code, is amended by inserting ''section 226 (relating to public corruption),'' after ''section 224 (relating to sports bribery),''.

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting ''section 226 (relating to public corruption),'' after ''section 224 (bribery in sporting contests),''.

SEC. 3. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended—

(1) by inserting '', or uses or causes the use of any facility in interstate or foreign commerce,'' after ''sounds''; and

(2) by inserting ''or attempting to do so'' after ''for the purpose of executing such scheme or artifice''.

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

''§ 1343. Fraud by use of facility of interstate commerce''.

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by amending the item relating to section 1343 to read as follows:

''1343. Fraud by use of facility in interstate commerce.''.

SEC. 4. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

''§ 220. Narcotics and public corruption

''(a) OFFENSE BY PUBLIC OFFICIAL.—A public official who, in a circumstance described in subsection (c), directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

''(1) being influenced in the performance or nonperformance of any official act; or

''(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State, shall be guilty of a class B felony.

''(b) OFFENSE BY PERSON OTHER THAN A PUBLIC OFFICIAL.—A person who, in a circumstance described in subsection (c), directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

''(1) to influence any official act;

''(2) to influence the public to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

''(3) to influence the public official to do or to omit to do any act in violation of the official's lawful duty, shall be guilty of a class B felony.

''(c) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in subsections (a) and (b) are that the offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

''(d) DEFINITIONS.—As used in this section—

''(1) the terms 'controlled substance' and 'controlled substance analogue' have the meanings stated in section 102 of the Controlled Substances Act (21 U.S.C. 802);

''(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

''(3) the term 'public official' means—

''(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

''(B) a juror;

''(C) an officer or employee or person acting for or on behalf of the government of any State, commonwealth, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, commonwealth, territory, possession, or political subdivision; and

''(D) any person who has been nominated or appointed to a position described in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed.''.

(b) TECHNICAL AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting ''section 220 (relating to narcotics and public corruption),'' after ''Section 201 (relating to bribery),''.

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting ''section 220 (relating to narcotics and public corruption),'' after ''section 201 (bribery of public officials and witnesses),''.

(3) The chapter analysis for chapter 11 of title 18, United States Code, is amended by

inserting after the item for section 219 the following new item:

''220. Narcotics and public corruption.''.

By Mr. SIMPSON:

S. 1379. A bill to make technical amendments to the Fair Debt Collection Practices Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE FAIR DEBT COLLECTION PRACTICES AMENDMENTS ACT OF 1995

● Mr. SIMPSON. Mr. President, today, I am introducing legislation to make technical amendments to the Fair Debt Collections Practices Act.

The original act was passed in 1977 to stop the abusive debt collection practices of third-party debt collectors. In that regard, it has worked well.

Debt collectors were told that if they ran honest, ethical operations they would not have problems with the act—that only the lawless collectors would be penalized. The law-abiding among them would thus not need to worry nor would they have to hire lawyers to interpret the act.

In that regard, the act may well have reached too far. Certainly, unscrupulous collectors have been forced to play by the rules, but may law-abiding collectors have found themselves unjustly burdened by many minor provisions found in the act. There have been hundreds of lawsuits based on technical and totally unintentional violations of the act.

We should remember that collection agencies are, in most cases, the smallest of small businesses. Also, some 38 percent are owned or operated by women, one of the highest of such percentages in all business categories.

These companies cannot afford huge legal bills and they certainly cannot get free legal representation. Because of the large increase in the number of such lawsuits, many collection agencies have seen huge increases in their insurance premiums.

The most distressing result is that small and highly dedicated group of attorneys is using the act to extort money from collection agencies. For example, the act has a $1,000 minimum statutory damage provision, even for the smallest, technical violation. These attorneys will comb collection files to find the smallest violation and then sue collection agencies for the $1,000 amount. The agency is usually forced to pay a settlement because, even if they have done nothing wrong, the legal fees required to defend such an action will run many thousands of dollars. Some agencies have even set aside money each month to pay off the demands of these lawyers, even though the company knows it has not violated the spirit of the act.

Let me cite some examples of ridiculous lawsuits that would be eliminated under this legislation.

A Nevada agency was sued for allegedly violating the prohibition against third-party contacts after the agency sued the debtor in court to obtain a judgment. The consumer attorney felt that communicating with the court was a third-party violation.

An agency that collects students loans for the Department of Education was similarly challenged in court. At issue was the language used by the agency in its letters as required by the Department. The language stated that no legal action is required for the Department to enforce an administrative garnishment against a debtor. The attorney argued that the notice was deceptive because it did not state that the debtor has a right to a hearing before the garnishment is enforced.

What about the collectors who are big enough to fight back? In many cases, collection agencies that can afford this costly litigation are not bothered by claimant attorneys. So effectively, the act has served to selectively penalize the small collector. To compound confusion, different courts have handed down totally contradictory decisions and opinions regarding the provisions of the act. Thus we have a Federal law requiring collectors to follow procedures that vary from State to State. The situation has become so confusing that the Federal Trade Commission has asked Congress to clarify the opposing court decisions and that, in part, is one of the purposes of this legislation.

In addition, the bill gets rid of the $1,000 statutory damages ''carrot'' that has, through its misuse, become a winning lottery ticket for some lawyers. Certainly a debt collector who wrongfully damages a debtor should be required to pay for those damages—and the legislation will preserve such compensation. A collector will be held responsible for actual damages, but not for an arbitrary standard that is not imposed by most other consumer laws.

Additionally, when Congress passed the Truth in Lending Simplification Act in the 1980's, it cleared up a major problem in class action lawsuits by limiting the total damages and number of such suits that could be filed against one defendant. Because of an oversight, the Fair Debt Collections Practices Act was not made part of the legislation and today debt collectors face a legal financial burden that other companies covered by consumer protection enforcement laws are protected against. This legislation corrects that oversight.

The legislation would allow judges to award defendants the cost of their actions plus legal fees if one of these suits is brought in bad faith. Rule 68 of the Federal Rules of Civil Procedure would now apply to lawsuits associated with the Fair Debt Collections Practices Act. Under that standard, when a defendant offers a settlement and the plaintiff refuses, if the ultimate court award is equal to or less than such an offer, the plaintiff has to pay the defendant's legal costs. This rule has worked well and should help end technical lawsuits.

Collectors are also being attacked by another class of attorneys—district or county attorneys who are setting up ''for profit,'' collection agencies that compete directly with private enterprise. Under a very narrow reading of the act, these State and local officials contend they are not covered by the legislation. In some areas, these public officials are telling merchants that they will not accept debts for collection if they have previously been turned over to a private collection agency. At present, the local government collection agencies are only collecting bad checks but they may well branch into other collection fields. Do not be fooled. These public officials are not collecting bad checks as part of their government function. No, only merchants who join the program can get this type of law enforcement. Individuals who have received bad checks cannot use the service. This amounts to law enforcement judged by the size of your wallet.

This legislation would still allow local officials to operate such collection activities but they would have to comply with the Fair Debt Collections Practices Act. No longer would such operations be able to charge a consumer $120 for a $5 returned check as has happened in some cases.

The legislation does not remove any of the other basic consumer safeguards that are in the act. Still in place are the restrictions against harassment by collectors, calls in the middle of the night, informing employers about debts and the all important safeguard that makes it illegal for a collector to do anything in a deceptive manner.

Mr. President, the amount of debt owed to American businesses that goes unpaid is skyrocketing. In the latest figures available, 226.2 million accounts totaling $79 billion were turned over to third-party collection agencies in 1993. It is estimated that bad debt cases cost every man, woman, and child in America $250 per year. That means that a family of four will pay $1,000 more for goods and services during each year. The figures for bad checks are even more staggering. On average, Americans write more than 1.5 million checks a day that are subsequently dishonored by U.S. banks.

In 1992 some 533 million checks totaling $16 billion were returned to U.S. banks. Projections for 1995 estimate that 619 million checks will ''bounce.'' By the year 200 the estimate is that 731 million will be returned. Our Nation's economy can't afford such losses and businesses deserve the services of an affordable collection industry that is not bogged down by the technical and nuisance lawsuits.●

By Mr. D'AMATO:

S. 1380. A bill to require forfeiture of counterfeit access devices, and for other purposes; to the Committee on the Judiciary.

FORFEITURE LEGISLATION

● Mr. D'AMATO. Mr. President, I introduce legislation that will close a

loophole which has proven to be a bonus to counterfeiters and a detriment to law enforcement. Simply stated, this legislation allows equipment used to counterfeit access devices to be treated like any other contraband and forfeited.

Currently under law, certain items are designated as contraband. Narcotics, illegal firearms, and counterfeit currency often come to mind when the issue of contraband is raised. Contraband also includes property designed or intended as the means of committing a criminal offense. Since narcotics are contraband, illegal drugs can be seized from a suspected drug dealer, as well as the vehicle in which the drug transaction occurred.

This bill would allow counterfeit access devices to be treated as contraband. Access devices are the means in which the account owner can access his or her own account, including credit cards and cellular phones. Counterfeiters can gain entry to this account and, in a matter of minutes, reach the owner's cash or use the owner's service. Criminals who perpetuate credit card fraud use equipment, such as an embosser and encoder, to imprint new numbers onto a piece of plastic. They are then able to use the credit cards to the limit for cash withdrawal using a valid credit card number. In telecommunications fraud, the offender can use an electronic serial number reader [ESN] to attract cellular phone numbers and store them for unauthorized use. By using a computer and a device called an E-chip, the offender can reprogram any cellular phone to call on another person's bill. Once the legitimate owner of the stolen cellular phone number realizes that their phone has been used by a criminal, the criminal is using another innocent owner's cellular number.

Law enforcement agencies do all they can to catch the offenders. The New York Times reported on an imaginative operation devised by the U.S. Secret Service to find perpetrators of cellular phone fraud, through the use of a computer bulletin board. I ask unanimous consent that the text of this article be included in the RECORD, Mr. President, and I would like to take this opportunity to congratulate the Secret Service for working to end fraud on this and other fronts.

The problem, however, is that when the perpetrators of credit card and cellular phone fraud are apprehended, and even convicted, the equipment used by the offenders is often returned to them after their sentence is served! Although this process seems preposterous, it is real. A credit card counterfeiter frequently receives his or her embosser and encoder once released from custody. The apparatus used to commit the cellular phone theft of services is also frequently remitted to the user, even if he or she was convicted. With their equipment intact, they are ready to commit fraud again if they so desire. The problem of counterfeit access devices costs the cellular phone companies and the banks billions of dollars every year. These costs get passed on to the customer.

Remittance of equipment used in counterfeiting access devices is certainly not the intent of law enforcement or prosecutors. These dedicated officials work tirelessly to do the right thing. Why is it that the devices are not forfeited? It is simply because the law has not been updated to keep up with technology.

The process is already in place for other contraband, such as narcotics, counterfeit currency and illegal firearms. It should not be too much of a stretch to extend the same procedures and safeguards that are available for these contrabands to counterfeit credit cards and cloned cellular phones.

This legislation will not end the counterfeiting of access devices but it will end the practice of returning tools to those who may use it for illicit purposes. Any hurdle that we can create for the repeat offender should be clearly established in law. The message from this Congress must be: for every ingenious way that criminals can commit their crimes, Congress is prepared to stop them.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FORFEITURE OF COUNTERFEIT ACCESS DEVICES.

Section 80302(a) of title 49, United States Code, is amended—

(1) in paragraph (4), by striking ''or'' the last place it appears;

(2) in paragraph (5), by striking the period and inserting ''; or''; and

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

''(6) a counterfeit access device, device-making equipment, or scanning receiver (as those terms are defined in section 1029 of title 18).''.

[From the New York Times, Sept. 12, 1995]

SECRET SERVICE GOES ON LINE AND AFTER HACKERS

(By Clifford J. Levy)

It was a classic sting operation, the kind of undercover gambit that has nabbed bad guys for decades: Federal agents disguised as big-time thieves set up shop and put the word out on the street that they were eager for business. Soon shifty characters were stopping by, officials said, peddling stolen goods that were worth millions of dollars.

But as the agents revealed yesterday, the meeting place for this subterfuge was not some grimy storefront. It was a computer bulletin board that the United States Secret Service has rigged together to troll for people who are illegally trafficking in the codes that program cellular phones.

The ''computer service,'' which led to the arrests of at least six suspected hackers and the possibility of more, is the latest indication that law enforcement agencies are being forced to try novel strategies to keep up with the startling growth in computer-assisted crime. Cellular-phone fraud alone cost companies $482 million last year, the cellular-phone industry estimates.

According to the criminal complaint in the case, a Secret Service agent used the Internet, the global computer network, to announce that the bulletin board catered to those involved in breaking into computers and in cellular-phone and credit-card fraud.

''People all over the country responded,'' said Peter A. Cavicchia 2d, the special agent in charge of the Newark office of the Secret Service, which ran the investigation. ''They felt they could do this with impunity.''

The Secret Service, which is the Federal agency charged with going after cellular phone and credit card fraud, has long been known to monitor commercial computer online services like Prodigy and America Online, as well as smaller, private computer bulletin boards, for illegal activities.

But officials said this case represented the first time that the Secret Service had created an entirely new computer bulletin board, which is basically a system that links different computer users, allowing them to chat with and leave messages for each other. There have been a few instances of other law enforcement agencies creating bulletin boards for investigations.

''If they are selling the stuff in cyberspace, law enforcement has to be willing to go there,'' said Donna Krappa, an assistant United States Attorney in Newark, who is on the team prosecuting the case. ''And the way to do that is to have a fence in cyberspace.''

As Federal law enforcement officials detailed it, the investigation unfolded much like a traditional sting that draws in people hawking stolen televisions, jewelry or cars. The agents made contact with the suspects, then worked to gain their confidence and allay their suspicions.

The difference, of course, was that most of these discussions were conducted with computers talking over telephone lines.

Last January, a Secret Service special agent, Stacey Bauerschmidt, using the computer nickname Carder One, established a computer bulletin board that she called Celco 51.

It is relatively easy to put together a private computer bulletin board, requiring only a computer, a modem, phone lines and communications software. Special Agent Bauerschmidt was assisted by an informer with experience as a computer hacker, officials said. The equipment and phone line for the scheme were located in a Bergen County, N.J., apartment building.

After buying hundreds of the stolen phone codes, the Secret Service conducted raids in several states late last week, arresting the six people and seizing more than 20 computer systems, as well as equipment for making cellular phones operate with stolen codes, said the United States Attorney in Newark, Faith S. Hochberg.

Officials said that of those arrested, two of them, Richard Lacap of Katy, Tex., and Kevin Watkins of Houston, were particularly sophisticated because they actually broke into the computer systems of cellular phone companies to obtain the codes.

It is more common for thieves to steal the codes by using scanners that intercept the signals that the phones send when making calls.

''We consider this to be one of the most significant of the wireless fraud busts that have come down so far,'' said Michael T. Houghton, a spokesman for the Cellular Telecommunications Industry Association, a trade group. ''These guys took it another degree.''

The others arrested were identified as Jeremy Cushing of Huntington Beach, Calif., Al Bradford of Detroit, and Frank Natoli and Michael Clarkson, both of Brooklyn.●

By Mr. LAUTENBERG:

S. 1381. A bill to amend the Internal Revenue Code of 1986 to allow individuals who are involuntarily unemployed to withdraw funds from individual retirement accounts and other qualified retirement plans without incurring a tax penalty; to the Committee on Finance.

INDIVIDUAL RETIREMENT ACCOUNTS LEGISLATION

● Mr. LAUTENBERG. Mr. President, today I am introducing legislation to allow persons who are involuntarily unemployed to withdraw funds from individual retirement accounts [IRAs] and other retirement plans, without the tax penalty that would otherwise apply.

Mr. President, over 7.5 million people were unemployed in September, which translates to an unemployment rate of 5.6 percent. Many of the unemployed will find themselves with no income, substantial fixed expenses, and severely impaired ability to make ends meet.

In most cases, these Americans have been laid off not because they are poor workers, or because they do not try hard enough. They are simply the innocent victims of corporate down-sizing, or other forces larger than themselves.

For those unlucky enough to be laid off when business slows, the experience is often traumatic. There is a sense of rejection and betrayal. There is anger. And perhaps most importantly, there is fear—fear for oneself, and for one's family.

The fear is understandable. While their short-term employment prospects are often bleak, the unemployed face enormous financial pressures. As mortgages and rent payments come due, and bills pile up, millions of American families find themselves trapped by high fixed expenses, and without a paycheck to make ends meet.

Unemployment insurance can help, but it often falls far short of families' real needs, particularly in areas like my home State of New Jersey, where the costs of housing and other basic necessities are unusually high. Even if a family manages to survive on unemployment compensation, there may not be enough to overcome joblessness by relocating, or training for a new job. Compounding matters, the benefits of the long-term unemployed often expire.

Yet in many cases, Mr. President, the unemployed do have their own savings in an IRA or other retirement plan. These savings can provide a financial life raft to get through this unexpected financial storm. Unfortunately, it is a life raft with a large hole, because, for those under age 59½, withdrawals generally trigger a stiff, 10-percent tax penalty.

Mr. President, Americans do not believe in hitting people when they are down. And I believe there is something fundamentally wrong with imposing a heavy penalty on those who want to gain access to their own money to cope with unemployment.

The bill I am introducing proposes to eliminate the 10-percent penalty for people who have been laid off and who are trying to find work. It is targeted to people who need it—those who have been eligible for unemployment compensation for at least 30 days.

I think that is only fair.

Mr. President, while the bill's primary purpose is to provide relief to the unemployed, it would also provide at least two additional benefits.

First, it should increase the savings rate, by encouraging Americans to participate in IRA's and other retirement plans. Currently, many people, particularly young people, are reluctant to tie up their money for decades in a retirement plan. They're concerned, understandably, that their savings would be inaccessible in an emergency, such as an unexpected period of unemployment, without the imposition of a heavy penalty.

Allowing greater flexibility during periods of involuntary unemployment, Mr. President, should reduce this concern, and that should lead to increased savings.

The bill also should provide another indirect benefit. By unlocking savings and injecting money into the economy during periods of high unemployment, the legislation would provide a modest countercyclical stimulus. This would help revive a slow economy to the benefit of all Americans.

Mr. President, the concept of allowing early withdrawals from retirement plans for specific compelling reasons is not new. In fact, I first introduced this proposal a few years ago, and it has been included in previous legislation adopted by the Senate.

In sum, Mr. President, this bill would provide relief to the unemployed, increase our Nation's savings rate, and provide an automatic stimulus to the economy during slow periods.

I urge my colleagues to support the bill, and 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. 1381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF EARLY DISTRIBUTION PENALTY DURING PERIODS OF INVOLUNTARY UNEMPLOYMENT.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to exceptions to 10-percent additional tax on early distributions from qualified plans) is amended by adding at the end thereof the following new subparagraph:

''(D) DISTRIBUTIONS FOR PERSONS WHO ARE INVOLUNTARILY UNEMPLOYED.—Any distributions which are made during any applicable involuntary unemployment period. For purposes of this subparagraph—

''(i) the term 'applicable involuntary unemployment period' means the consecutive period beginning on the 30th day after the first date on which an individual is entitled to receive unemployment compensation and ending with the date on which the individual begins employment which disqualifies the individual from receiving such compensation (or would disqualify if such compensation had not expired by reason of a limitation on the number of weeks of compensation); and

''(ii) the term 'unemployment compensation' has the meaning given such term by section 85(b).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after the date of the enactment of this Act.●

By Mr. STEVENS:

S. 1383. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel Westfjord; to the Committee on Commerce, Science, and Transportation.

S. 1384. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *God's Grace II;* to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION LEGISLATION

● Mr. STEVENS. Mr. President, today I am introducing separate bills to provide certificates of documentation for the vessels *Westfjord* and *God's Grace II.*

The *Westfjord,* hull number X–53–109, is a 53′ Chris Craft recreational vessel owned by Gary and Neoma Scheff of Craig, AK. It was built in Algonac, MI in 1954. Because records of the vessel have been lost, it has been determined to be ineligible to be documented for use in the coastwise trade. The Scheffs intend to use the vessel as a charter vessel.

The *God's Grace II,* Alaska registration number AK5916B, is a 32′ commercial fishing vessel owned by Winston Gillies of Kenai, AK. It was built in North Vancouver, BC in 1965. The vessel was originally built for one of the Kenai packing companies and has been used for fishing off Alaska for 30 years.

Because the *God's Grace II* is less than 5 gross tons, Mr. Gillies has been able to operate the vessel in the coastwise trade without documentation. Mr. Gillies would now like to extend the boat to 36′ in order to be able to fish in the Class C, 35- to 60-foot, category of the halibut and sablefish individual fishing quota [IFQ] program. If he extends the vessel, the vessel will exceed 5 tons and he will be required to have documentation.

I ask for unanimous consent that these two bills be printed in the RECORD.

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

S. 1383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United State Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsements for employment in the coastwise trade for the vessel *Westfjord* (Hull number X53–109).

S. 1384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsements for employment in the coastwise trade for the vessel *God's Grace II* (Alaska registration number AK5916B).●

By Mr. BREAUX (for himself, Mr. CONRAD, Mr. DORGAN, Mr. KERREY, Mr. DASCHLE, and Mr. HOLLINGS):

S. 1385. A bill to amend title XVIII of the Social Security Act to provide for coverage of periodic colorectal screening services under part B of the Medicare Program; to the Committee on Finance.

THE COLORECTAL CANCER SCREENING ACT OF 1995

● Mr. BREAUX. Mr. President, I introduce a measure that I believe should garner widespread support in both parties. The Colorectal Cancer Screening Act of 1995 would provide screening under Medicare for the third most prevalent type of cancer, cancer of the colon and rectum, which will strike 138,200 Americans this year. The bill would provide screening in a cost-effective manner which would ensure that doctors and their patients, not the Federal Government, decide which of the several recommended screening procedures are used. I am joined by Senators CONRAD, DORGAN, KERREY, DASCHLE, and HOLLINGS.

Let me share with you some of the frightening facts about colorectal cancer. According to the American Cancer Society, 55,300 Americans will die this year from this disease. Of the 138,200 new cases that will be reported, about half will be among men—70,700—and half among women—67,500. Only lung and prostate cancer attack more Americans. In my own State of Louisiana, 2,000 citizens will get this type of cancer this year.

As with most cancers, early detection is key to surviving colorectal cancer. About 90 percent of colorectal cancer victims whose cancer is detected in an early localized stage survive beyond 5 years. That number drops to between 50 and 60 percent when the cancer has spread regionally and to less than 10 percent when it has spread more widely.

Mr. President, colorectal cancer is a major cost to the Medicare Program. According to the Centers for Disease Control, 168,000 seniors were hospitalized with colon or rectum cancer in 1991—the most recent year for which data is available. The average hospital stay for these patients was 16 days.

While private health plans are beginning to provide coverage for colorectal cancer screening, Medicare—which serves older Americans who are most at risk—does not. According to a report from the Congressional Officer of Technology Assessment released earlier this year, screening for colorectal cancer is more cost-effective than many of the other procedures the Medicare Program already covers. Screening provides benefits at a cost of about $13,000 per life-year saved, versus $40,000 to $50,000 per life-year saved for some preventive and other services that Medicare already covers. At a time when we are looking for ways to control the overall cost of the Medicare Program, we must continue our efforts to use those limited funds in ways that are cost-effective.

Mr. President, I know that other Members of this body have introduced a bill to provide for colorectal cancer screening. This measure differs from theirs in only a few ways. First, this bill is not procedure-specific. It would provide Medicare coverage for all of the colon cancer screening recommended by the American College of Physicians and which the Office of Technology Assessment found to be cost-effective. Second, the would allow the Secretary to add new procedures once they are developed. This is critically important to encouraging innovation and research in this area. As a number of medical companies have explained in recent correspondence, legislation that ''limits Medicare reimbursement to only a few of the current screening technologies does not allow for the development and diffusion of new medical procedures which might ultimately prove more effective and cost-efficient in the detection of colorectal cancer.'' Mr. President, I believe Medicare should cover all types of recommended screening and let the patient and his doctor, not the Federal Government, decide which one is appropriate.

This bill would follow the guidelines approved by the American College of Physicians on April 23, 1990, which read as follows:

Recommendations:

1. Screening with fecal occult blood tests is recommended annually for individuals age 50 and older.

2. Screening with sigmoidoscopy is recommended every 3–5 years or with air-contrast barium enema every 5 years for individuals age 50 or older.

3. For individuals age 40 and older who have familial polyposis coli, inflammatory bowel disease, or a history of colon cancer in a first degree relative, i.e., parent or sibling, screening with air-contrast barium enema or colonoscopy in addition to annual fecal occult blood tests, is recommended every 3–5 years.

For individuals over the age of 50 who are on Medicare and at average risk of colorectal cancer, this bill would allow payment for: every 12 months, a fecal blood test; and every 5 years, a sigmoidoscopy, barium enema, or other procedure approved by the Secretary. For individuals at high risk of colorectal cancer, the bill would allow Medicare reimbursement for: every 12 months, a fecal blood test; and every 2 years, a colonoscopy, barium enema, or other procedure approved by the Secretary.

Here's how the American Cancer Society described these different procedures in its 1995 Cancer Facts and Figures report:

The stool blood test is a simple method to test feces for hidden blood. The specimen is obtained by the patient at home and returned to the physician's office, a hospital, or a clinic for analysis. The Society recommends annual testing after age 50.

In proctosigmoidoscopy, the physician uses a hollow lighted tube or a fiberoptic sigmoidoscope to inspect the rectum and lower colon. To detect cancers higher in the colon, longer, flexible instruments are used. The American Cancer Society recommends sigmoidoscopy, preferably flexible, every 3 to 5 years after age 50.

If any of these tests reveal possible problems, more extensive studies, such as colonoscopy (examination of the entire colon) and barium enema (an x-ray procedure in which the intestines are viewed), may be needed.

Mr. President, if we are to provide screening for colorectal cancer, which I believe is desperately needed, we should allow all types of procedures recommended by the American College of Physicians and described by the American Cancer Society. This bill would do just that. I know that other Members of this body have indicated their support for colorectal cancer screening under Medicare. My hope is that we can all join together on a proposal that will give seniors and their doctors the maximum choice and protection from this dreaded disease.

I ask unanimous consent that the full text of the Colorectal Cancer Screening Act of 1995 and the recommendations from the American College of Physicians on screening for colorectal cancer be printed in the RECORD.

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

S. 1385

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 ''Colorectal Cancer Screening Act of 1995''.

SEC. 2. MEDICARE COVERAGE OF COLORECTAL SCREENING SERVICES.

(a) IN GENERAL.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by inserting after subsection (d) of following new subsection:

''(e) FREQUENCY AND PAYMENT LIMITS FOR COLORECTAL SCREENING PROCEDURES.—

''(1) SCREENING FECAL-OCCULT BLOOD TESTS.—

''(A) PAYMENT LIMIT.—In establishing fee schedules under section 1833(h) with respect to screening fecal-occult blood tests provided for the purpose of early detection of colon cancer, except as provided by the Secretary under paragraph (3)(A), the payment amount established for tests performed—

''(i) in 1996 shall not exceed $5; and

''(ii) in a subsequent year, shall not exceed the limit on the payment amount established under this subsection for such tests for the preceding year, adjusted by the applicable adjustment under section 1833(h) for tests performed in such year.

''(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (3)(B), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test is performed—

''(i) on an individual under 50 years of age; or

''(ii) within the 11 months after a previous screening fecal-occult blood test.

''(2) PERIODIC COLORECTAL SCREENING PROCEDURES FOR INDIVIDUALS NOT AT HIGH RISK FOR COLORECTAL CANCER—

''(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to periodic colorectal screening procedures provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section. The Secretary shall establish a single payment amount for periodic colorectal screening procedures, which shall be based on the cost of a flexible sigmoidoscopy or barium enema procedure, as the Secretary determines appropriate.

''(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a periodic colorectal screening procedure provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—

''(i) on an individual under 50 years of age; or

''(ii) within the 59 months after a previous periodic colorectal screening procedure.

''(D) PERIODIC COLORECTAL SCREENING PROCEDURE DEFINED.—The term 'periodic colorectal screening procedure' means a flexible sigmoidoscopy, barium enema screening procedure, or other screening procedure for colorectal cancer, as determined by the Secretary.

''(3) SCREENING FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

''(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to each eligible procedure for screening for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section. The Secretary may establish a payment amount for a barium enema procedure pursuant to this paragraph that is different from the payment amount established pursuant to paragraph (2) for a periodic colorectal screening procedure for an individual not a high risk for colorectal cancer so long as the payment amount established pursuant to paragraph (2) is not based on the cost of a barium enema procedure.

''(B) ELIGIBLE PROCEDURES.—Procedures eligible for payment under this part for screening for individuals at high risk for colorectal cancer for the purpose of early detection of colorectal cancer shall include a screening colonoscopy, a barium enema screening procedure, or other screening procedures for colorectal cancer as the Secretary determines appropriate.

''(C) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a screening procedure for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 23 months after a previous screening procedure.

''(D) FACTORS CONSIDERED IN ESTABLISHING CRITERIA FOR DETERMINING INDIVIDUALS AT HIGH RISK.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer or precursor neoplastic polyps, a history of chronic digestive disease condition (including inflammatory bowel disease, Crohn's Disease or ulcerative colitis), the presence of any appropriate recognized gene markers for colorectal cancer and other predisposing factors.

''(4) REDUCTIONS IN PAYMENT LIMIT AND REVISION OF FREQUENCY.—

''(A) REDUCTIONS IN PAYMENT LIMIT.—The Secretary shall review from time to time the appropriateness of the amount of the payment limit established for screening fecal-occult blood tests under paragraph (1)(A). The Secretary may, with respect to tests performed in a year after 1998, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available during the year.

''(B) REVISION OF FREQUENCY AND DETERMINATION OF ELIGIBLE PROCEDURES.—

''(i) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing screening fecal-occult blood tests, periodic colorectal screening procedures, and screening procedures for individuals at high risk for colorectal cancer based on age and such other factors as the Secretary believes to be pertinent, and shall review periodically the availability, effectiveness, and cost of screening procedures for colorectal cancer other than those specified in this section.

''(ii) REVISION OF FREQUENCY AND DETERMINATION OF ELIGIBLE PROCEDURES.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection and may determine that additional screening procedures shall be considered to be 'periodic colorectal screening procedures' or an eligible procedure for the screening of individuals at high risk for colorectal cancer, but no such revision shall apply to tests or procedures performed before January 1, 1999.

''(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

''(A) IN GENERAL.—In the case of a periodic colorectal screening procedure provided to an individual for the purpose of early detection of colon cancer or a screening provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual enrolled under this part, the physician may not charge the individual more than the limiting charge (as defined in section 1848(g)(2)).

''(B) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).''.

(b) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended by striking ''subsection (h)(1),'' and inserting ''subsection (h)(1) or section 1834(e)(1),''.

(2) Section 1833(h)(1)(A) of such Act (42 U.S.C. 1395l(h)(1)(A)) is amended by striking ''The Secretary'' and inserting ''Subject to paragraphs (1) and (3)(A) of section 1834(e), the Secretary''.

(3) Clauses (i) and (ii) of section 1848(a)(2)(A) of such Act (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by striking ''a service'' and inserting ''a service (other than a periodic colorectal screening procedure provided to an individual for the purpose of early detection of colon cancer or an eligible screening procedure provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)''.

(4) Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking ''and'' at the end;

(ii) in subparagraph (F), by striking the semicolon at the end and inserting '', and''; and

(iii) by adding at the end the following new subparagraph:

''(G) in the case of screening fecal-occult blood tests, periodic colorectal screening procedures, and screening procedures provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(e);''; and

(B) in paragraph (7), by striking ''paragraph (1)(B) or under paragraph (1)(F)'' and inserting ''subparagraphs (B), (F), or (G) of paragraph (1)''.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to services furnished on or after January 1, 1996.

[From the American College of Physicians]

SCREENING FOR COLORECTAL CANCER

DISEASE

Invasive colorectal cancers arise from adenomas or originate (de novo) from the mucosa of the colon. Progression from adenoma to invasive cancer takes about five years.

Colorectal cancer accounts for 150,000 new cases each year and 61,000 deaths. It is the second most common form of cancer in the US. On the average, it deprives patients of nearly 10 percent of their expected life span.

Risk factors for colorectal cancer include inflammatory bowel disease, familial ploypsis syndromes, family history, and a previous history of noeplasms. A diagnosis of familial polyposis syndrome or inflammatory bowel disease requires monitoring.

SCREENING TEST(S)

Several tests and procedures have been proposed for colorectal cancer screening; the most common are digital examination, fecal occult blood tests (FOBT), and sigmoidoscopy. Air-contrast barium enemas and colonoscopy have been proposed for screening individuals at high risk of developing colorectal cancer.

The digital rectal examination entails a manual exploration of the rectum.

Fecal occult blood tests entail smearing a stool specimen on a slide and submitting the specimen for analysis. Recommended practice is to take two samples on each of three consecutive days, while on a diet designed to reduce the frequency of false positives.

Sigmoidosocpy is the inspection of the interior of the colon through an endoscope inserted via the rectum. Sigmoidolscopes vary in length and may be rigid or flexible. When available, use of a flexible scope is preferred; otherwise, a rigid scope is acceptable.

Air-contrast barium enema and colonoscopy allow the inspection of the entire colon. The former involves the administration of barium into the rectum, followed by x-ray study of the entire intestine; the latter introduction of a fiberoptic instrument.

RECOMMENDATIONS

1. Screening with fecal occult blood tests is recommend annually for individual age 50 and older.

2. Screening with sigmoiodoscopy is recommended every 3–5 years or with air-contrast barium enema every 5 years for individuals age 50 and older.

3. For individuals age 40 and older who have familial polyposis coli, inflammatory bowel disease, or a history of colon cancer in a first degree relative, i.e., parent or sibling, screening with air-contrast barium enema or colonoscopy in addition to annual fecal occult blood tests, is recommended every 3–5 years.

RATIONALE

Although there is little direct evidence of the effectiveness of colorectal cancer screening, there is indirect evidence, based on the natural history of the disease and the effectiveness of screening tests, that screening should reduce colorectal cancer incidence and mortality.

Risks associated with colorectal cancer screening include perforations from sigmoidoscopy, colonoscopy and barium enema and the extensive diagnostic tests associated with false-positive results of fecal occult blood testing.

Individuals at high risk for colorectal cancer due to familial polyposis coli or inflammatory bowel disease, a history of colorectal cancer in a first degree relative should be encouraged to have a complete examination of the colon. Factors influencing the choice between air contrast barium enema and colonoscopy include cost and access to qualified physicians able to perform safe and accurate studies.●

By Mr. NUNN:

S. 1387. A bill to provide for innovative approaches for homeownership opportunity, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE HOMESTEADING AND NEIGHBORHOOD RESTORATION ACT OF 1995

Mr. NUNN. Mr. President, I rise today to discuss one of our Nation's most critical problems—the lack of affordable housing for low income people. As my colleagues know, housing is one of the most basic human needs. Lack of it is a problem which plagues every State, in both urban and rural areas. Today I would like to remind my colleagues of an organization founded on the belief that this is unacceptable. This organization is Habitat for Humanity International.

Habitat is a nonprofit, ecumenical Christian housing ministry founded in 1976 by Millard and Linda Fuller and based in Americus, GA. Its ambitious goal is nothing less than to eliminate poverty housing and homelessness from the world. Since 1976, Habitat has constructed 40,000 homes worldwide, in every U.S. State and in 45 other countries. As a result of Habitat's efforts, a quarter of a million people worldwide are living in safe, decent, and affordable housing.

Though Habitat has chapters all over the globe, its work is done on a truly grass roots, individual basis. Through volunteer labor and tax deductible donations of money and materials, Habitat joins with the partner family to build or rehabilitate a house. Habitat houses are then sold to partner families at no profit, financed with affordable loans with no interest. The homeowners' monthly mortgage payments go into a revolving fund which finances the building of more houses.

As the numbers I mentioned a moment ago demonstrate, this has been a fantastically successful concept. In my view, though, the idea at the heart of Habitat's success is the idea of ''sweat equity.'' Part of the deal presented to a potential homeowner is that they must contribute their own hard work and sweat to the construction of their home and the homes of others. In this way, the family builds a tangible bond to the finished product, and therefore has a strong interest in maintaining it. In addition, the contribution of sweat equity leads new homeowners to a stronger sense of community responsibility—contributing to the decency and safety of their street and neighborhood.

In this way, Habitat not only builds new homes, it also helps rebuild the internal sense of community that has declined in our Nation. By giving families a home—not a handout from a faceless Government bureaucrat, not a benefit check, but an opportunity to dedicate their hard work to owning their own home—Habitat helps to combat the despair and apathy evident in so many of our communities.

For these reasons, I am introducing today the Homesteading and Neighborhood Restoration Act of 1995. This legislation, which is supported by such diverse interests as former President Carter, Speaker GINGRICH, and HUD Secretary Cisneros, directs the Secretary of Housing and Urban Development to reprogram $50 million in existing HUD funds into a grant program for Habitat for Humanity and other low cost housing organizations. In keeping with Habitat's policy of refusing to accept Government funds for actual construction work on dwellings, the funds could only be used for land acquisition or infrastructure improvements, and only in the United States. The bill directs that half of the reprogrammed dollars would be granted to Habitat, and the other half would be held in reserve for other similar organizations to compete for. Any funds not claimed by qualified organizations would be granted to Habitat.

My estimates indicate that the funds included in this legislation would allow Habitat to begin construction on 5,000 new dwellings across the Nation immediately. Additionally, as new homeowners begin to pay back their loans, the money would be recycled to build even more homes.

So many times we in Congress must allocate Government dollars based on a sense of trust—with very little assurance that the taxpayers' funds will actually yield any results at all. Thankfully, this legislation does not necessitate Congress taking such a leap of faith. The successes of Habitat for Humanity are standing already in brick and mortar in 40,000 places around the world. This legislation will enable them to expand their successes to many more locations. This is a private initiative that really works, and I urge my colleagues to support it.

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

S.J. Res. 42. A joint resolution designating the Civil War Center at Louisiana State University as the U.S. Civil War Center, making the center the flagship institution for planning the sesquicentennial commemoration of the Civil War, and for other purposes; to the Committee on Energy and Natural Resources.

U.S. CIVIL WAR CENTER JOINT RESOLUTION

● Mr. BREAUX. Mr. President, today I am introducing a joint resolution on behalf of myself and Senator JOHNSTON to designate the U.S. Civil War Center as the flagship institution charged with planning and facilitating the sesquicentennial of the American Civil War in 2011.

While the date may still seem far off, it is important to remember that this will be a particularly important anniversary as it will be the last opportunity for most of us to commemorate the Civil War. The Civil War Center at Louisiana State University in Baton Rouge, LA, offers the most appropriate setting for the organization of this remembrance. There is no other center in the United States that currently studies the war from the perspective of every conceivable discipline, profession, and occupation. The center will be able to coordinate with the numerous Civil War commemorative organizations throughout the Nation. Funding for the activities throughout the sesquicentennial will come from private donations and grants.

Since the end of the commemoration of the centennial of the war in 1965, the United States has come a long way toward healing some of the lingering wounds of the war. Recent events have emphasized that many of them still must be addressed, as racism, violence, and regional economics remain problems in our united Nation. If we are to continue to learn from our differences, the commemoration of the sesquicentennial offers the opportunity to reflect on where we once were and where we will next go.

I urge my colleagues to join me in the designation of the U.S. Civil War Center as the flagship institution for the sesquicentennial.

Mr. President, I ask unanimous consent that the text of the joint resolution and the letter of support from the center's advisory board be printed in the RECORD.

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

S.J. RES. 42

Whereas the sesquicentennial of the beginning of the Civil War will occur in the year 2011;

Whereas the sesquicentennial will be the last significant opportunity for most Americans alive in the year 2011 to recall and commemorate the Civil War;

Whereas the Civil War Center at Louisiana State University in Baton Rouge, Louisiana,

has as principal missions to create a comprehensive database that contains all Civil War materials and to facilitate the study of the war from the perspectives of all ethnic cultures and all professions, academic disciplines, and occupations;

Whereas the 2 principal missions of Civil War Center are consistent with the commemoration of the sesquicentennial; and

Whereas advance planning to facilitate the 4-year commemoration of the sesquicentennial is required: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF UNITED STATES CIVIL WAR CENTER.

The Civil War Center, located on Raphael Semmes Drive at Louisiana State University in Baton Rouge, Louisiana, shall be known and designated as the ''United States Civil War Center''.

SEC. 2. REFERENCES.

Any references in a law, map, regulation, document, paper, or other record of the United States to the center referred to in section 1 shall be deemed to be a reference to the ''United States Civil War Center''.

SEC. 3. FLAGSHIP INSTITUTION.

The center referred to in section 1 shall be the flagship institution for planning the sesquicentennial commemoration of the Civil War.

U.S. CIVIL WAR CENTER ADVISORY BOARD

DEAR SENATOR: As members of the United States Civil War Center's Advisory Board, we strongly encourage your cosponsorship of Senator John Breaux's resolution to designate the United States Civil War Center as the flagship institution charged with planning and facilitating the Sesquicentennial of the American Civil War in the years 2011–2015.

The Civil War Center at Louisiana State University in Baton Rouge, Louisiana, offers the most appropriate facility to ensure that the commemoration embraces all of the possibilities for an experience that will affect all Americans profoundly and that will have longlasting effects.

Knowing that we all have much to learn from the five years our nation was at war with itself, we urge you to join Senator Breaux in cosponsoring this resolution.

Ed Bearss, Historian; Ken Burns, Florentine Films; William C. Davis, Historian; Rita Dove, U.S. Poet Laureate and Consultant to the Library of Congress; William Ferris, Director, Center for the Study of South Culture.

Shelby Foote, Novelist, Historian; Grady McWhitney, Historian; T. Michael Parrish, Historian; R.E. Turner, Chairman of the Board, Turner Broadcasting; Tom Wicker, Novelist, Journalist.●

ADDITIONAL COSPONSORS

S. 607

At the request of Mr. WARNER, the names of the Senator from Utah [Mr. HATCH] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 704

At the request of Mr. SIMON, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Virginia [Mr. WARNER], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 837

At the request of Mr. WARNER, the names of the Senator from California [Mrs. BOXER], the Senator from North Dakota [Mr. CONRAD], the Senator from Connecticut [Mr. DODD], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1150

At the request of Mr. SANTORUM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall plan and George Catlett Marshall.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from Montana [Mr. BURNS] 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. 1265

At the request of Mr. LEAHY, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1265, a bill to authorize the Secretary of Agriculture to make temporary assistance available to support community food security projects designed to meet the food needs of low-income people, increase the self-reliance of communities in providing for their own food needs, and promote comprehensive, inclusive, and future-oriented solutions to local food, farm, and nutrition problems, and for other purposes.

S. 1274

At the request of Mr. LOTT, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1274, a bill to amend the Solid Waste Disposal Act to improve management of remediation waste, and for other purposes.

S. 1329

At the request of Mr. DOLE, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1329, a bill to amend title 38, United States Code, to provide for educational assistance to veterans, and for other purposes.

S. 1370

At the request of Mr. CRAIG, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 1370, a bill to amend title 10, United States Code, to prohibit the imposition of any requirement for a member of the Armed Forces of the United States to wear indicia or insignia of the United Nations as part of the military uniform of the member.

S. 1372

At the request of Mr. MCCAIN, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1372, a bill to amend the Social Security Act to increase the earnings limit, and for other purposes.

S. 1375

At the request of Mr. BURNS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1375, a bill to preserve and strengthen the foreign market development cooperator program of the Department of Agriculture, and for other purposes.

AMENDMENTS SUBMITTED

THE SENIOR CITIZENS' FREEDOM TO WORK ACT

ROCKEFELLER AMENDMENT NO. 3043

Mr. ROCKEFELLER proposed an amendment to the bill (S. 1372) to amend the Social Security Act to increase the earnings limit, and for other purposes; as follows:

At the appropriate place insert the following: ''It is the sense of the Senate that the conferees on the part of the Senate on H.R. 2491 should not agree to any reductions in Medicare beyond the $89 billion needed to maintain the solvency of the Medicare trust fund through the year 2006, and should reduce tax breaks for upper-income taxpayers and corporations by the amount necessary to ensure deficit neutrality.''

THE FAT, OILS AND GREASES DIFFERENTIATION ACT OF 1995

CHAFEE (AND OTHERS) AMENDMENT NO. 3044

Mr. DOLE (for Mr. CHAFEE, for himself, Mr. BAUCUS, Mr. PRESSLER, Mr. LUGAR, and Mr. HARKIN) proposed an amendment to the bill (H.R. 436) to require the head of any Federal agency to differentiate between fats, oils, and greases of animal, marine, or vegetable orgin, and other oils and greases, in issuing certain regulations, and for other purposes; as follows:

On page 2, line 8, after ''to'' insert ''the transportation, storage, discharge, release, emission, or disposal of''.

On page 2, line 9, strike ''any'' and insert ''that''.

On page 2, line 18, strike ''such'' and insert ''that''.

On page 2, line 22, strike ''different'' the first place it occurs.

On page 2, line 23, strike ''as provided'' and insert ''based on considerations''.

On page 3, line 12, strike ''carrying oil in bulk as cargo or cargo residue''.

On page 3, line 13, after ''carried'' insert ''as cargo''.

NOTICE OF HEARING

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Forests and Public Lands to consider four miscellaneous land bills. The first is S. 1371, the Snowbasin land exchange bill, to exchange certain lands in Utah. S. 590, a land exchange for the relief of Matt Clawson, and S. 985, to exchange certain lands in Gilpin County, CO, will also be the subject of the hearing. The last bill to be considered is S. 1196, to transfer certain National Forest System lands adjacent to the Townsite of Cuprum, ID. The subcommittee will not receive testimony on S. 901 and S. 1169 as previously announced.

The hearing will take place Tuesday, November 7, 1995, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Mark Rey at (202) 224–6470.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. GREGG. I ask unanimous consent that the Committee on Finance be permitted to meet Thursday, November 2, 1995, beginning at 10 a.m. in room SD–215, to conduct a markup of S. 1318, the Amtrak and Local Rail Revitalization Act of 1995.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, November 2, 1995, at 9:30 a.m. for a hearing on S. 704, the Gambling Impact Study Commission Act.

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

SPECIAL COMMITTEE ON AGING

Mr. GREGG. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, November 2, at 10 a.m. to hold a hearing to discuss Medicare and Medicaid fraud.

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

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT AND RELATED MATTERS

Mr. GREGG. Mr. President, I ask unanimous consent that the special committee to investigate Whitewater development and related matters be authorized to meet during the session of the Senate on Thursday, November 2, 1995, to conduct a hearing on the handling of the documents in Deputy White House Counsel Vincent Foster's office after his death.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, November 2, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony from academicians and State and local officials on alternatives to Federal forest land management. Testimony will also be sought comparing land management cost and benefits on Federal and State lands.

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

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct a hearing Thursday, November 2, at 10 a.m., hearing room SD–406, on courthouse construction and related GSA public buildings program matters.

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

ADDITIONAL STATEMENTS

FOREIGN OPERATIONS APPROPRIATIONS CONFERENCE REPORT

● Mr. MCCAIN. Mr. President, during the vote yesterday on an amendment I offered to the Senate amendment to the amendment in disagreement in the foreign operations appropriations conference report, there was some confusion over the administration's position despite the assurances in my statement that the administration supported my amendment. To clarify this issue, I ask that a letter of support from Assistant Secretary of State for Legislative Affairs Wendy Sherman be included in the RECORD.

The letter follows:

DEPARTMENT OF STATE,
Washington, DC, Nov. 1, 1995.

Hon. JOHN MCCAIN,
Senate.

DEAR SENATOR MCCAIN: In response to your inquiry regarding the Department's position on counternarcotics assistance to Burma, I would like to reiterate the comments contained in the Department's September 14 letter to Senators McConnell and Leahy commenting on key provisions in the FY 1996 Foreign Operations Appropriations bill, as reported by the Subcommittee.

In that letter, the Department of State noted that:

''The existing political situation in Burma precludes significant cooperation on drug control, but we need flexibility to decide whether it is in our interest to cooperate in specific, limited cases as they arise. Burma is the world's number one heroin producer and sixty percent of the heroin that comes to the streets of the United States originates in Burma. The Administration must have the opportunity to work against a problem which affects the daily lives of the American people in such a harmful way.''

The Department's opposition to legislative restrictions on counternarcotics aid to Burma remains unchanged.

I trust that this information is responsive to your inquiry. The Department of State greatly appreciates your continuing support for our position and we continue to support the substance of your legislative language to facilitate limited and carefully structured counternarcotics cooperation with Burma while at the same time maintaining our policy on human rights and democracy. If you need further information, please do not hesitate to contact us.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary Legislative Affairs.●

ARCTIC NATIONAL WILDLIFE REFUGE

● Mr. HARKIN. Mr. President, I was greatly disappointed by the vote of the Senate last Friday to open the ANWR to oil exploration. This was a tremendous mistake that, if uncorrected, will be a significant blow to the environment.

Mr. President, it is time for government to practice fiscal responsibility. However, we should not destroy the Arctic National Wildlife Refuge [ANWR] in an effort to balance the budget. Our children do not deserve to inherit a huge debt. However, they do deserve to inherit our Nation's abundant wildlife and wilderness in the same or better condition as we did. Cheating our children of this inheritance is not sound fiscal policy.

The attempt to open the ANWR for the exploration of oil is not something new. In fact, a battle has been developing for over 15 years. Congress has voted to protect this area in the past and must continue to fight this battle and preserve the ANWR in the future.

The Budget Committee claims that opening the ANWR for oil exploration may generate $1.4 billion in leasing revenues during a 4-year period. This sounds like a lot of money and is a lot of money. Yet, this figure represents a mere two-tenths of 1 percent of the budget deficit. Should we sacrifice a unique ecological environment whose value is priceless in order to pay off less than one-half of 1 percent of our total debt? This just does not make sense.

Oil is valuable and can be priced. But how can we price the 150,000-member porcupine caribou herd that migrates

to the ANWR each year to give birth to their calves? How can we price the culture of the Gwich'in people who have been in northeast Alaska for 20,000 years? How can we price an entire ecosystem that is the life support of over 165 different species?

Mr. President, inclusion of the ANWR provision in our budget reconciliation plan is unacceptable. It is not fair to our children and future generations to come. I urge the conferees to drop this ill-advised antienvironment provision from the bill.●

SOCIAL ROULETTE

● Mr. LUGAR. Mr. President, I ask unanimous consent that the attached article be printed in the CONGRESSIONAL RECORD at the appropriate place.

The article follows:

[From the Washington Post, Sept. 22, 1995]

SOCIAL ROULETTE

The spread of legalized gambling is the political issue that has yet to roar, but may do so soon—and should. In a decade, casino gambling has spread from two states to at least 35. Gambling is done on riverboats, on Indian reservations, in well-established downtowns. Native American tribes (including some that have rediscovered their existence for the primary purpose of setting up casinos) are the best publicized entrepreneurs in this field, partly because they can operate free of many regulations. Estimates on how much money is involved here are all over the lot, depending on what sorts of gambling are counted in, but a study by U.S. News & World Report concluded that counting state lotteries and the like, $330 billion was wagered legally in 1992, up 1,800 percent since 1976.

Rep. Frank Wolf (R–Va.), along with Sens. Paul Simon (D–Ill.) and Richard Lugar (R–Ind.), thinks the country ought to take a long look as it hurtles toward turning itself into one gigantic open town. They have introduced useful bills to create a national commission that would undertake, as Mr. Wolf puts it, ''an objective, credible and factual study of the effects of gambling'' on communities, including its impact on crime rates, political corruption and family life, and also to examine its economic costs and benefits.

Those pushing casinos into communities make large claims about their economic benefits, but the jobs and investment casinos create are rarely stacked up against the jobs lost and the investment and spending forgone in other parts of a local economy. The Commission's study could be of great use to communities pondering whether to wager their futures on roulette, slot machines and blackjack. The Wolf bill wants a report from the commission in three years; the Simon-Lugar bill wants it in half that time. We're inclined to think the quicker the better.

The ''gaming industry,'' as it calls itself, is fighting these proposals. One hopes that at next week's House Judiciary Committee hearing on the Wolf bill, gambling's representatives will be asked why they fear a national commission. If all their claims about gambling's beneficial effects are true, a commission would presumably verify them. If critics of gambling are wrong in seeing it as being linked to crime, corruption and social breakdown, the commission would presumably find that out too. Could it be that those with an interest in the spread of gambling fear what a fair study will find?

True to form, gambling now has its own trade association, and gambling interests—tribal and others—have stepped up their campaign contributions to both parties. To pick a few examples: Golden Nugget, the well-known Las Vegas casino, gave $230,000 in ''soft money'' to the Republican Party last year; Frank Fertitta Jr., chairman of Station Casinos Inc., also gave $230,000 to the GOP; the Mashantucket Pequot Tribe gave $365,000 to the Democrats in the 1993–94 election cycle and covered its bets with $100,000 to the Republicans in November of 1994.

The country is in the presence of a powerful and growing industry and an important social phenomenon. At the least, the federal government should help the country figure out what is going on, which is why what Mr. Wolf, Mr. Lugar and Mr. Simon are doing is so important.●

THE MILLION MAN MARCH

● Mr. SIMON. Mr. President, the significance of the Million Man March in Washington will be debated a year from now, and perhaps then with greater understanding. But we should not wait a year to learn from it.

From my perspective there was both good and bad to the assemblage. The good included:

Hundreds of thousands—the latest estimate is 800,000—of African American men came to Washington to send a message to the Nation and to their black male counterparts. To the Nation the message of the gathering was simple: There is still too much racism and injustice. To other African American men: We must do better.

To have close to a million men as part of a demonstration and not have a single incident that called for police action is a tribute to participants and to those staging the event.

Those cleaning up the inevitable debris from such a huge gathering, I am told, found not a single beer can. These were men gathered for a mission, not a party.

The size of the crowd, coupled with the decision in the recent O.J. Simpson trial and the Rodney King episode, has the Nation talking about race more candidly, though the barriers of prejudice or embarrassment or awkwardness make candid talk between whites and blacks less common than it should be.

Inevitably, comparisons are made with the 1963 throng that Martin Luther King addressed. The 1963 gathering had these advantages over the recent gathering:

It was inclusive. It was a call for the Nation to come together. Both the crowd and the message were impressive. And partly as a result of that gathering, great strides were made against the cruder forms of segregation and injustice. In a brief message, Dr. King called upon all of us—across the barriers of race and sex and religion and ethnic background—to do better.

The anti-Jewish message that Minister Farrakhan has delivered—though not at this gathering—should be offensive to all thoughtful people.

I am old enough to have been part of the civil rights efforts of the 1950s and 1960s. The whites who were with us disproportionately in that struggle to secure opportunity for African Americans were not Lutheran, which I am, not Catholic, which my wife is, nor Methodist nor Presbyterian nor Baptist, but Jewish. The Jews have experienced centuries of discrimination, and rose in significant numbers in behalf of others discriminated against. It is ironic that people of little understanding but large ambition have mistakenly believed that you can build blacks up by tearing Jews down.

My son is a professional photographer. He took pictures at this event, and when one of the marchers saw his credentials and read the name ''Martin Simon,'' he asked my son: ''You're Jewish, aren't you?'' And not in a tone of pleasant inquiry. We are not Jewish, but what if we were? Should that make any difference?

In contrast to Martin Luther King, Minister Farrakhan delivered a lengthy speech with no coherence. He had an opportunity to ask the nation for two or three things of importance, but he muffled the opportunity. That he is a person of considerable ability, no one can question. Like all of us, he can grow in the future—away from some of his prejudices. He accurately sensed the dissatisfaction level among African American men. The 1963 gathering will be remembered for the huge crowd and the message. The 1995 gathering will be remembered for the huge crowd.

One other concern: The anti-white and anti-Jewish inflammatory rhetoric of some of the pre-march rallies led by Minister Farrakhan's followers will do nothing for either blacks or whites. At one meeting, which David Jackson, a white reporter for the Chicago Tribune, attended—and was the only white at the gathering—a speaker said, ''We ought to just turn the lights out and boot your * * * out.'' A small group grabbed him and roughly threw him out of the meeting. That type of conduct does no one any good.

Let me add, I am not anti-Muslim. I sponsored the first Muslim to lead the Senate in prayer. I recognize the discrimination that Muslims encounter, and like all forms of discrimination, it is wrong.

What all of us must do: Talk candidly about the injustices that still exist in our society. And talk not just with ''our'' group.

Recognize that U.S. poverty exceeds that of any other Western, industrialized nation. Poverty falls disproportionately on minorities and women. We act as if being poor was an act of God, rather than what it is, flawed policy.

Support those who would bring us together as a Nation, and be wary of those who would further divide us.●

THE 35TH ANNIVERSARY OF THE AMERICAN COUNCIL FOR THE ARTS

● Mr. JEFFORDS. Mr. President, 35 years ago, the American Council for the Arts [ACA] was established under the name Community Arts Councils, Inc., as an organization supporting the arts and artists in this country. Over the three-and-a-half decades since its founding, the American Council for the Arts has played a major role in the dramatic increase in the availability of the arts to the American people.

In the early 1960's, ACA served as one of the earliest advocates for the creation of the National Endowment for the Arts and the National Endowment for the Humanities. Nancy Hanks served as one of ACA's first presidents before becoming Chair of the National Endowment for the Arts in 1969. Over the years, ACA board members have included David Rockfeller, Jr., Joanne Woodward, Jane Alexander, Harry Belafonte, Ralph Ellison, Colleen Dewhurst, Joseph Papp, Lane Kirkland, and Kitty Carlisle Hart, among others. In the 1970's, due to the broadening of ACA's objectives and the increasing demand for special constituent services, two separate organizations were spun-off from ACA: the National Assembly of State Arts Agencies and the National Assembly of Local Arts Agencies.

From arts advocacy to publishing, from founding the National Coalition of United Arts Funds, to working on behalf of arts education initiatives, ACA has worked tirelessly on behalf of the arts and culture of this Nation. Every spring, ACA mounts Arts Advocacy Day and the Nancy Hanks Lecture on the Arts and Public Policy in Washington, DC. Advocacy Day brings together arts advocates from across the country to work on behalf of a strong Federal role in funding the arts and culture, and the Nancy Hanks Lecture, now in its 9th year, has quickly become one of the most important public forums on the relationship between Government and the arts. Nancy Hanks Lecturers have included Arthur Schlesinger, Jr.—1988, Leonard Garment—1989, Maya Angelou—1990, John Brademas—1991, Franklin Murphy—1922, Barbara Jordan—1993, David McCullough—1994, and Winton M. Blount—1995. The 1996 lecturer will be Carlos Fuentes.

ACA's National Arts Clearinghouse contains a wealth of arts policy information, and other arts studies, magazines, journals, and documents—an invaluable resource for the study of arts policy. Over the years, ACA has commissioned studies and produced books for artists, arts administrators, policymakers, students, educators, and others. ACA commissioned the first Lou Harris poll on ''Americans and the Arts'' in 1973 and has recommissioned the poll five times.

ACA has made an enormous contribution to the wealth and vitality of our great Nation. Please join with me in celebrating ACA's 35 years of service to the arts.●

CULTURAL DIVERSITY VERSUS AFFIRMATIVE ACTION

● Mr. INOUYE. Mr. President, it has come to my attention that a recently published book, ''Managing Plurality: Beyond Diversity to Effective Organizational Changes,'' by the past president of the American Psychological Association, Dr. Donald E. Fox, and his colleague, Dr. J. Renae Norton, sensitively explores issues relating to diversity in the labor force and affirmative action. I agree with their contention that affirmative action is not really the problem; but, rather it is the manner in which it is implemented and managed that seems to cause the most difficulties.

I have observed over the last 3 or 4 years that criticisms of affirmative action programs have increased and some people are even calling for their complete elimination. Historically, affirmative action has been particularly beneficial in bringing women and minorities into the work place. Today affirmative action is needed more than ever to insure that all individuals have equal access to opportunities for advancement and positions of more responsibility.

We would all readily admit that when affirmative action is implemented as a numbers game that merely counts how many women or minorities are employed, it works against the needs of business as well as the people it was designed to help. However, our society is changing so rapidly that a diverse work force is becoming the rule rather than the exception. For example, it is estimated that in the very near future, 85 percent of the new jobs in the labor force will be filled by women, minorities, and immigrants. Organizations that are looking to their future will have to evaluate the impact that diversity in our society will have on the marketing of their products or services. What better way for an organization to ensure innovation than through the cultivation of a diverse work force. For example, in my own State of Hawaii, cultural diversity is the rule, not the exception. This diversity is not only accepted, but sought after by organizations seeking to compete in the international market.

Projections show that as the labor pool becomes more diverse, the number of people with technical skills will shrink. It would, therefore, seem logical that the contributions of every employee should be maximized. Organizations would benefit from recruiting and retaining the best and the brightest employees that are in the available labor pool. It should then be easy to see that diversity is not something that organizations create, but something that occurs naturally in every organization.

Frequently, when organizations introduce programs to manage or value diversity, the programs have a tendency to promote group differences rather than exploring the mutual interests of the individuals within the organization. Although I am not a psychologist, in my judgment, it would seem that an organization would do substantially better if they would encourage individuals to maintain their cultural differences and individuality while participating in and contributing to the goals of their organization, and thus hopefully creating a pluralistic work environment. If the organization uses its diversity to its benefit by managing plurality, it can focus on common goals and experiences rather than on the differences among groups, and at the same time address bottom-line business issues. The experience of the military over the past 40 years has, I believe, demonstrated the value of cultural diversity—especially as the military deploys into nations throughout the world on various missions. So, simply stated, it makes eminent sense to me that with proper management, diversity is an asset to the organization and affirmative action is a part of the solution, not the problem.●

CONTINUE SUPPORT FOR BYRNE GRANT FUNDING

● Mr. HARKIN. Mr. President, the Edward Byrne Grant Program is one of the most successful Federal-State crime prevention efforts ever. Working in partnership with State and local governments, the Byrne Program helps local law enforcement improve their criminal justice systems and make communities safer by helping to prevent crime.

Law enforcement officials all across Iowa have told me of the success they have had as a result of these funds. Drug enforcement task forces, improved law enforcement technology, the DARE Program, domestic violence intervention, and countless other valuable antidrug and anticrime efforts have been possible because of the Byrne Grant Program.

Unfortunately, Mr. President, violence, like a communicable disease, has spread to every part of our country and our State. To eradicate this epidemic of violence we must attack both the problem and the symptoms. While the Federal Government cannot have all the answers, the Byrne Program is an important part of the solution. Byrne funding enhances law enforcement initiatives focused on battling criminals already invading our streets, as well as aiding law enforcement in their ongoing efforts to help communities prevent crime before it happens.

The Byrne Program also promotes cooperation among State and local law enforcement agencies to improve the efficiency of their criminal justice systems. A shining example in Iowa is the multijurisdictional drug task forces that form the backbone of Iowa's effort to combat drug related crimes. These task forces are composed of State and

local law enforcement officers as well as State and local attorneys. They cover almost 70 of Iowa's 99 counties. Officers pool resources and equipment to carry out drug investigations and the attorneys provide legal advice to ensure a sound drug investigation. In Waterloo, IA, the State and local task force even works with the U.S. attorneys office to form a Federal, State and local crime fighting team.

And Mr. President, like a one-two punch, the Byrne Program's special emphasis on drug abuse prevention gets to the heart of the problem and moves us toward a long-term solution to crime prevention. Violent crimes committed by youth have increased over 50 percent from 1988 to 1992 and drugs are a major factor in many violent crimes. DARE—drug abuse resistance education programs, put police officers in schools talking to kids about drug abuse. DARE programs serve 70,000 Iowa students. Traditional drug abuse programs dwell on the harmful effects of drugs. Iowa's DARE programs help students recognize and resist the many subtle pressures that influence them to experiment with alcohol and other drugs.

Violence in this country will be reduced because of officers on the front line making a difference in their community and getting the resources they need to do the job. The Byrne Grant Program is a critically important component in halting the increased incidences of crime and violence in our society.

I was pleased that our push for increased funding for the Byrne Grant Program paid off. The fiscal year 1996 Commerce, State, Justice bill passed by the Senate, provides a $25 million increase over last year's funding. We need to build on the progress we have made in our fight against crime and continue to support successful and effective programs such as the Edward Byrne Memorial State and Local Law Enforcement Assistance.●

LAWSUIT ABUSE AWARENESS WEEK

● Mr. ROCKEFELLER. Mr. President, I proudly acknowledge a group of citizens in West Virginia who are hard at work to address an issue affecting every citizen of our State: Lawsuit abuse.

In many areas of West Virginia, local citizens are getting involved with a group they call Citizens Against Lawsuit Abuse, with the goal of making the public more aware of the costs and problems stemming from excessive numbers and kinds of lawsuits.

The CALA effort focuses on education. These citizens are speaking out about an issue that has statewide and national consequences. The costs of lawsuit abuse include higher costs for consumer products, higher medical expenses, higher taxes, and lost business expansion and product development.

The mission of Citizens Against Lawsuit Abuse is to curb lawsuit abuse. Here is an example of West Virginians devoting energy and effort towards solving problems that cost our State jobs, profits, and opportunity.

My own work in this has focused on the problems of our product liability system, and I got involved when I saw the terrible consequences of the country's confusing, patchwork, slow, and often unfair system of product liability rules that badly need reform. The help of individuals, including members of the legal profession, involved in Citizens Against Lawsuit Abuse in West Virginia, has been crucial to the legislative success we are finally with the product liability reform bill that I introduced once again early in this Congress. In May, working closely with Senator GORTON of Washington State, we succeeded in winning Senate approval of our bill and we are now hoping to engage in a conference with the House of Representatives to develop a final bill for the President's signature.

Legal reform of any kind is not a simple issue. The legal system must function to provide justice to every American. But that does not mean that the status quo is necessarily perfect. When lawsuits and the courts can be used in excess or result in imposing costs on other parties, from individuals to non-profit agencies to businesses, without reason, the system should be reviewed and reformed if possible.

Through CALA in West Virginia, nonprofit groups have raised local funds to run educational media announcements and are speaking to local organizations and citizens groups across the State to raise public awareness on the lawsuit abuse issue.

Citizens Against Lawsuit Abuse groups have declared October 30 through November 3, 1995, as ''Lawsuit Abuse Awareness Week'' in West Virginia.

I want to commend these citizens for their dedication and commitment and to acknowledge this week as a time of public awareness on the serious issues associated with lawsuit abuse.●

A DEEPLY FLAWED IMMIGRATION BILL

● Mr. SIMON. Mr. President, now that the House Judiciary Committee has passed comprehensive immigration reform legislation, many eyes will be turning to the Senate to see what efforts in this area will take place here.

One fundamental question facing the Senate is whether to address illegal and legal immigration reform in the same legislation. Though the House has thus far chosen this path, I do not think the Senate should follow its example. At the very least, we in the Senate ought to limit the drastic and unwarranted cuts in legal immigration that appear in the legislation passed in the House Committee, and should approach the issue of backlogs in family categories with the fairness on which we pride ourselves.

I ask to have printed in the RECORD an October 23, 1995, editorial in the Chicago Tribune entitled ''A Deeply Flawed Immigration Bill.'' The editorial aptly notes that while Congress should take decisive and quick action to enforce our laws against illegal immigration—such as those endorsed on an unprecedented basis by the Clinton administration, it ''can approve those without agreeing that legal immigrants are a problem in need of such harsh solutions.'' I agree with the Tribune's position, and urge my colleagues not to penalize those who have played by the rules for the conduct of those who have chosen not to play by the rules.

The editorial follows:

[From the Chicago Tribune, Oct. 23, 1995]

A DEEPLY FLAWED IMMIGRATION BILL

Since its creation, the United States has been a country of immigrants that welcomed new immigrants. But if Republicans on the House Judiciary Committee get their way, as they seem likely to do, the welcome will be quite a bit chillier for many foreigners who would like to come here legally and become part of America.

This is being done partly in the name of combating illegal immigration, which most Americans rightly think is warranted. But the bill being debated in the Judiciary Committee treats both legal and illegal immigrants as undesirable and out of control.

On illegal immigration, the measure sponsored by Rep. Lamar Smith (R-Tex) has much to recommend it. It authorizes the hiring of more Border Patrol agents and Labor Department inspectors to police the border and the workplace, raises penalties for the use of phony documents, provides money to build fences between the U.S. and Mexico, and streamlines deportation procedures for foreigners who arrive without proper documents.

It also attempts to crack down on employment of illegals by establishing a telephone registry to let employers verify that new hires are cleared to work. The registry, supposedly a pilot project, is probably too ambitious for a useful experiment, since it would affect all employers in five of the seven states getting the most foreigners—California, Texas, Illinois, Florida, New York, New Jersey and Massachusetts. But a smaller undertaking, as suggested by the Clinton administration, could yield valuable lessons.

The real problem lies in the proposed treatment of legal immigrants. First, the bill would drastically reduce the number allowed in, cutting the annual intake from 800,000 to fewer than 600,000. This approach presumes that people who come here legally are a burden, instead of the enriching source of renewal they always have been.

Second, among the categories of people who now get preference in the immigration queue are brothers and sisters, adult children and parents of citizens and legal permanent residents. The Smith bill would eliminate these explicitly or in effect, limiting ''family reunification'' to spouses and minor children of those already here.

This new priority does not seem misguided. But it can be legitimately criticized on grounds that it would leave in the lurch thousands of people who applied under the old rules and have waited to be admitted—some of them 10 or 15 years.

Barring new applicants in these categories is not unreasonable, but rejecting those already waiting would be callous in the extreme. Yet last week the committee balked at even refunding the $80 application fee these aspiring immigrants have each paid. Slam the door in their face, but only after taking their money—it's not exactly the American way.

Members of Congress from both parties should have no trouble with the bill's resolute measures to fight illegal immigration. But they can approve those without agreeing that legal immigrants are a problem in need of such harsh solutions.●

ORDERS FOR FRIDAY, NOVEMBER 3, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Friday, November 3; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business until 1 p.m., with Senators permitted to speak therein for up to 5 minutes each, with the following exceptions: Senator THOMAS, 60 minutes; Senator DASCHLE or his designee, 60 minutes; Senator MURKOWSKI, 20 minutes; Senator GRAHAM of Florida, 20 minutes; Senator GRAMS, 10 minutes; Senator GRASSLEY, 10 minutes, and Senator CRAIG, 10 minutes.

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

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, the Senate will be in a period of morning business until 1 p.m. At 1 p.m. the Senate could turn to any legislative item cleared for action. Therefore, votes are a possibility.

Also, Senators should be reminded that the majority leader has announced that the Senate will adjourn for the Thanksgiving holiday at the close of business on Friday, November 17, to reconvene on Monday, November 27.

This coming Monday, it is hopeful that the Senate will be able to turn to the State Department reorganization bill, which has a previous consent of 4 hours. However, no votes will occur on Monday.

Mr. President, let me indicate that I know there are a number of matters that will be coming out of committee in the next few days. It may be that there will be an opportunity to proceed to some minor—I should not say minor, they are very important pieces of legislation, but are those which have no opposition or real problems from either side. We would like to dispose of some of those bills in the next 2 weeks.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, if there be no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:44 p.m., adjourned until Friday, November 3, 1995, at 10 a.m.