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Senate

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

PRAYER

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

Almighty God, thank You for the gift of vibrant confidence based on vital convictions. We are confident in Your unlimited power. Therefore, at no time are we helpless or hapless. Our confidence is rooted in Your Commandments. Therefore, we are strengthened by Your absolutes that give us enduring values. Our courage is based on the assurance of Your ever-present, guiding spirit. Therefore we will not fear. Our hope is rooted in trust in Your reliability. Therefore, we will not be anxious. Your interventions in trying times in the past have made us experienced optimists for the future. Therefore, we will not spend our energy in useless worry.

You have called us to glorify You in our work here in this Senate. Therefore, we give You our best for this day's responsibilities. You have guided our beloved Nation through difficult periods of discord and division in the past. Therefore, we ask for Your help in the present debate over crucial issues today. Thank You for the courage that flows from our unshakable confidence in You. In the name of Jesus. Amen.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 1453 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BURNS. 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.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. FEINSTEIN. Mr. President, thank you very much.

AIR TRAFFIC CONTROL FAILURES

Mrs. FEINSTEIN. Mr. President, I have asked my staff in California to begin to monitor air traffic control failures. They have started with the San Francisco Bay area, and I would like to make a report this morning on what they have found in the last 5 months.

The San Francisco Bay area is essentially controlled out of Oakland where nearly 18 million square miles of airspace is under control by air traffic controllers. Next week I would like to make a report on Los Angeles.

I sent this in writing to the Secretary of Transportation. But I believe the findings of the last 5 months really deserve to be printed in the CONGRESSIONAL RECORD and deserve the attention of the U.S. Senate because I think air passengers are very much at risk today.

I am unconvinced that the situation is being looked at with the urgency it demands, and my great fear is that it is going to take a major human tragedy to really get the kind of attention the situation needs.

This morning I want to urge the FAA to make the acquisition of new and reliable equipment its highest priority. In the past, the FAA has resisted incremental improvements in the Nation's air traffic control system in favor of huge changes that never materialize. This leaves centers across the United States that are operated by mainframe computers and vacuum tubes that are over 25 years old. The irony here is that the air equipment, the planes in the air, are new. The system that controls their safety is old and failing. Backup systems are being used more and more frequently, and in some cases the backup is no more reliable than the equipment it is replacing.

The following is a summary of incidents of equipment failure in the San Francisco Bay area since August of this year.

Let me begin with August 8, 1995. The Bay TRACON system located at the Oakland airport, controlling the entire bay area airspace at below 15,000 feet, experienced partial radar failure for 3 to 5 minutes before reliable radar data was displayed on controller scopes.

The next day, August 9, 1995, the air traffic control center at Oakland located in Fremont, covering 18.3 million miles of airspace, suffered a total failure of radar, radio, and landline communications, including backup systems. Radar remained out for 34 minutes. Radios and landlines were out for

21 minutes. There were 295 airplanes airborne under Oakland's ARTCC's control at the time of the outage.

A few weeks later, August 22, a power failure at Bay TRACON disabled Oakland's radar system again. Backup radar provided only 85 percent coverage and took 3 to 5 minutes to come on line.

And 3 days later, August 25, 1995, a dual sensor problem disabled Bay TRACON's Oakland radar system.

September 6, the controllers lose power to voice and computer data lines at Oakland ARTCC used to control and track aircraft over the Pacific Ocean.

The next day, September 7, 1995, the main and backup power supply fails at Oakland ARTCC. Power is not restored in time to preserve the data base in the oceanic computer known as ODAPS. Controllers rebuild the data base manually when the computer power is returned. The shutdown lasted 4 hours.

A few days later, September 13, 1995, the Bay TRACON's Oakland radar failed three times when a 26-year-old microwave link malfunctioned. The first failure lasted 32 minutes. The second failure lasted 81 minutes. And the third failure lasted for hours.

Two weeks later, September 25, 1995, an internal power failure at Bay TRACON disabled so-called noncritical systems and caused air-conditioners to go out. Controllers were exposed to 90-degree heat in the control room, computers overheated and failed due to the extreme temperature increase.

October 1, 1995, a power surge at Moffett Field caused a radar site to switch to engine generators. While repairs were being made the next day, the bay area was without a backup system for 7 hours.

October 27, 1995, during the morning inbound rush and foggy conditions, the Bay TRACON computer froze and caused controllers to perform automated functions manually.

November 3, 1995, faulty computer connections forced air traffic controllers in Fremont to track aircraft with a backup system for nearly 48 hours.

November 28, just a few days ago, airport surveillance radar at the Oakland airport goes down for an hour.

Needless to say, it is a miracle that no collisions have occurred. This is the fourth busiest airspace in the Nation. The situation and the growing frequency of outages across the United States are simply disasters waiting to happen.

These examples from the San Francisco Bay area are symptomatic of a nationwide problem. At a time when the private sector is building the most advanced airplanes in the world, the FAA is still using equipment that is over a quarter of a century old.

I realize that resources are an issue. Yet the airport and airways trust fund which funds the FAA has an annual budget of $12 billion a year. I cannot stress enough the importance of this money translating into new equipment for air traffic control centers across the country. We cannot continue to function with a system that often fails and leaves the safety of airline passengers in question.

These equipment outages, along with a recent Los Angeles Times report of equipment falling off old aircraft and very nearly landing on human beings, has me very worried about public safety. What concerns me more than these dangers, however, is the FAA's assessment that no lives are at risk.

Given the above list of outages along with reports of equipment nearly killing people as it falls from the sky, I find this extremely difficult to believe. Some action must be taken.

It has been suggested that the FAA could operate more effectively if removed from the Department of Transportation. I am not certain if that is the answer, but it is obvious to me that some dramatic improvements must be made in order to ensure the safety of the flying public.

I would like to offer any necessary and appropriate assistance to facilitate a change in the priorities of the Federal Aviation Administration. I look forward to working with my colleagues toward a solution to this increasingly alarming situation.

Next week I hope to come before the Senate to discuss similar incidents at Los Angeles International Airport. I yield the floor.

PRESIDING OFFICER. The Senator's time has expired.

Mrs. FEINSTEIN. I thank the Chair.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

BALANCING THE BUDGET

Mr. CRAIG. Mr. President, we had asked last night for a period of a special order this morning to discuss the President's veto of the Balanced Budget Act of 1995. Certainly I, and I think a good number of Americans, Mr. President, watched yesterday as this President with grand theater and style worked overtime to cover up the fact that he has not produced a balanced budget and in fact cannot, given his agenda, produce a budget that will be in balance by the year 2002.

Instead, yesterday he accused Republicans of not recognizing the need for education, of not recognizing the need to strengthen and save Medicare. And, of course, that simply is not true and the American public knows it.

The Balanced Budget Act of 1995 that the President vetoed yesterday recognizes the importance of education and does not cut student loans. It recognizes the importance of a sound Medicare system to seniors and strengthens Medicare into the year 2000, by spending nearly an additional $2,000 per Medicare recipient in the year 2002, compared with 1995. And certainly that is also true of Medicaid, which is returned to the States for greater efficiencies and greater humanity as States deal with applying Medicaid to the truly needy of our society.

Several of us have gathered this morning for the purpose of discussing the President's veto, the benefits of the budget that the President unfortunately vetoed, and the budget situation this Congress and our country finds itself in.

At this time I will yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

A BALANCED BUDGET

Mr. THOMAS. Mr. President, I thank the Senator. I think all of us are very concerned about where we go from here, concerned about the President's veto of the first balanced budget proposal that could have succeeded in 30 years. The President cannot continue to veto the will of the American people who list as their top priority balancing the budget.

You say why, why is that a top priority? Not simply because it is good government, not because it is financial and fiscal responsibility, but because they understand, and Wyoming families understand, as do others, that every day the Government fails to balance the budget, more money is taken from their families' futures.

Families are thinking down the road, fortunately. They care about the world their children will inherit and the fact that we are ready to move into a new century, and they ask themselves what kind of a Government will we pass on to our children and our grandchildren? Will it be the one with the credit card maxed out? That is where we are now.

So these families think about what is coming in the future. Unfortunately, the Clinton administration thinks about the next election. Had the President come to the snubbing post and done the right thing, Wyoming families would have saved money. They would have saved $2,404 per year—these figures were done up by the Heritage Foundation on a State-by-State basis—$2,400 per year on lower mortgage payments, over $300 a year due on State and local interest payments, $500 per year on lower interest payments for student loans. These are for average families in Wyoming.

The State and local governments in Wyoming—we want to transfer some of that responsibility—would have saved $57 million over 7 years on lower interest rates brought about by balancing the budget.

So the issue of balancing the budget is the most critical one. We have to balance the budget because of the impact it has on families and the benefits that come from it. The deficit is robbing our families' bank accounts. It must be budgeted. And anything else is the wrong thing to do.

The Clinton administration has done less than the responsible thing. I think we have to start talking about that and not let them get by with going to the media and saying, ''We're protecting

this and we're protecting that. We can't do this.'' We have to balance the budget. And this administration has done what I think is the most selfish thing, and that is to play the political game at the expense of American families.

The President has not done anything to bring about real change. In 1993, we had the largest tax increase the world has ever known. But spending continued to go up, and we have not balanced the budget. He has proposed two budgets this year, neither of them balanced. Neither of them got any votes in this Senate. He now proposes to bring up another one today. We will see. But he is going to do it without CBO numbers, without real numbers.

Now, people say, what is CBO? What is OMB? What is the difference? I can tell you what the difference is. CBO is real numbers. You can balance the budget, if you fool with the projections, without really balancing the budget. Raise the projections out here 7 years from now when you are no longer President and it is painless to do it in the meantime. It is also phony. We cannot do that.

We see this leadership in this administration trying to patch the walls of a crumbling welfare state. Talking about the Great Society, we spent $5 trillion in these welfare programs and they have not worked. You cannot expect different results if you continue to do the same thing. You need real welfare reform. We need to guard and protect Medicare. And we need to think about what kind of country we want as we go into the 21st century. The balanced budget is the way to proceed.

Mr. President, there are a number of principles that need to be followed. First of all, if we are going to have a balanced budget, we have to start with honest numbers. Certainly, you can argue about the projections, but you have to start with real numbers and be willing to make the changes that are necessary to make that balance. You have to reduce Washington spending, which is as important as balancing the budget. You could balance it, I suppose, by raising taxes. But we need to bring down spending. We have to ensure Medicare solvency. We have to make some changes to do that. We have to have real welfare reform. Welfare reform without results is not what we want. We have to change that. We have to put some more power in the people in the States and move government closer to the people, and we must do it now.

Mr. President, I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2076

Mr. CRAIG. Mr. President, before I yield to the Senator from Alaska, I ask unanimous consent that debate time on the Commerce, State, Justice appropriations conference report, H.R. 2076, be limited to the following: Senator GREGG, 2 hours; Senator HOLLINGS, 2 hours; Senator BIDEN, 2 hours; Senator BUMPERS, 20 minutes. Further, that following the expiration or the yielding back of the previously mentioned debate time, the Senate vote on the adoption of the conference report with no intervening action or debate.

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

Mr. CRAIG. I thank the Chair.

Now let me yield 5 minutes to the Senator from Alaska, to speak on the President's veto of the budget.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI] is recognized for 5 minutes.

Mr. MURKOWSKI. I thank my colleague from Idaho. I wish the President a good morning.

PRESIDENTIAL VETO OF THE BALANCED BUDGET

Mr. MURKOWSKI. Mr. President, yesterday, President Clinton, with a great deal of fanfare and theatrics, vetoed the first balanced budget legislation sent to any President in the last three decades. Think about that a moment, Mr. President. The first balanced budget legislation sent to any President in nearly three decades was vetoed yesterday by President Clinton.

What is the accumulated debt of this country? It is $4.9 trillion. That occurred as a consequence of prevailing Democratic control of both the House and Senate during those decades.

The veto was very well orchestrated, with the President deciding to use the same pen that the late President Lyndon Johnson used to sign the original Medicare legislation back in 1965. However, in what may be a metaphor for this President, when he put pen to the paper, nothing happened; the pen was out of ink, just as the President is out of ideas and just as Medicare is out of money.

Mr. President, the American public deserves better. Throughout the entire year, Republicans in Congress have worked night and day to develop and pass a real balanced budget along with family tax relief. There were some Democrats who worked with us. And what has the President done this year? Absolutely nothing. He has spoken empty rhetoric about wanting to balance the budget.

Mr. President, there is a difference between wanting and doing. President Clinton has submitted two budgets this year. The first one—think about this—the first one did not receive a single vote, Democrat or Republican, when we voted on it in the Senate, not one single vote, because the President's first budget would have led us to unending deficits and a sea of red ink for the indefinite future.

He came along and said his second budget would balance in 10 years. But like everything else with this President, rhetoric and reality are inconsistent. It is what the polls say that motivates the actions down at the White House.

When the Congressional Budget Office scored the President's second budget, they again found endless annual deficits—in excess of $200 billion. Now the President says he is going to send us a third budget, and this one will be balanced in 7 years. I am a little cynical simply because I have been there before. I am from Missouri—maybe—when in reality I am from Alaska, but the same point is applicable. After two false starts, I wish to see something real.

I hope the President does send us a balanced budget, but I have had an opportunity this morning for a preview of what we anticipate is his effort, and it does not balance. It simply does not balance. So as a consequence, I fear we are facing a third situation where the President has sent us something that is totally unacceptable.

I hope that the President will be willing to recognize and give the American family the relief they need from taxes. I hope he will give Americans incentives to invest in our future and save. I hope that he would give Americans an opportunity for hope—hope that Government can be downsized, more efficient, more responsive. And I hope he will give America the economic security that will come from allowing oil exploration to proceed in ANWR, which I note in his veto statement he rejected.

On that point, I would like to defer to his veto statement where he suggests, under title V, the opening of the Arctic National Wildlife Refuge to oil and gas threatens a unique, pristine ecosystem in hopes it will generate $1.3 billion in Federal revenues, revenues based on wishful thinking, and outdated analysis.

Mr. President, the wishful thinking is in the eyes of some of America's environmental community that focuses on this as a cause for membership and a cause of raising dollars at the expense of our national energy security, and at the expense of our jobs and at the expense of American technology.

Geologists have indicated that this area is the most likely area in North America where a major oil discovery could take place. And to suggest the arguments that prevailed against Prudhoe Bay 20 years ago are now being applied to the opening up of ANWR are not realistic is really selling American technology and ingenuity short. This could be the largest single job producer in the United States for the remainder of the century. It could be the largest contributor, if you will, to an increase in tax revenue for the Federal and State governments. The consequence of the President's shortsightedness in dismissing this really underestimates the capability of America's can-do spirit and advanced technology.

Mr. President, I think it is fair to say the American public today is fed up with this lack of leadership. The American public wants a balanced budget

they can understand. They do not understand the dispute between the OMB and the CBO figures. They want a balanced budget that simply says the revenue will equal the outflow. We got into this situation as a consequence of spending more money than we generated in revenues, and there is only one way to correct that: Either through increased revenues or reduced spending.

We Republicans, I think, have delivered a responsible pledge. It is now up to the President to transform his words into deeds. It is time for the President to get serious, to send us his proposals for balancing the budget with no phony numbers, no rosy scenarios. And it is time for the posturing to end and the serious business of balancing the budget to begin.

I thank my colleagues and wish them a good day.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Idaho.

Mr. CRAIG. Mr. President, before I yield to the Senator from Michigan, I ask unanimous consent to have printed in the RECORD a study by the Heritage Foundation called ''Balanced Budget Talking Points: The $500–Per-Child Tax Credit,'' which discusses what it would mean to a typical middle-income family in this country to have the middle-class family tax credit that was in the Balanced Budget Act vetoed yesterday. In having this printed in the RECORD, let me suggest that a family of four spends on the average $3,986 a year in groceries, or about $332 a month. What the President did yesterday was take away from the average American family 3 month's—3 month's—worth of grocery bills.

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

THE $500-PER-CHILD TAX CREDIT MEANS ONE MONTH'S FOOD AND MORTGAGE FOR A TYPICAL AMERICAN FAMILY

(By Scott A. Hodge, Grover M. Hermann Fellow in Federal Budgetary Affairs)

''If you take the $500 a year tax credit, and I figure, you know, $5 for a bottle of wine, that is 100 bottles of wine for a family.''[1]—Congressman Jim McDermott (D–WA)

Contrary to what elitists in Washington would have the public believe, for most hard-working American families raising children a $500 tax cut for each child is not an insignificant amount of money. This is especially true as many families no doubt are wondering how they will be able to afford the $432 some surveys report each household expects to spend this holiday season.[2] Yet the families of 51 million children, or over 28 million families in all, will be denied relief from their financial worries by President Bill Clinton's expected veto of Congress's seven year balanced budget and tax cut plan, which had as its centerpiece a $500-per-child tax credit. This tax cut would pump over $22 billion per year into family budgets across the country so that working parents can provide for their children in a way no government program can.

As congressional Republicans negotiate with the White House on a compromise plan to balance the budget by 2002 and provide tax cuts, they should resist pressure to scale back the $500-per-child tax credit as a price for cutting a deal. Those who argue that Washington cannot ''afford'' such generous tax cuts while the government is trying to balance the budget are, in effect, arguing for higher spending. The budget will not be balanced any faster if the amount of the per-child credit is reduced below $500 or if the income for which families are eligible is lowered from its current level of $110,000 for joint filers.[3] Any money not put back in the checkbooks of working families with children through tax cuts, is more money in the checkbook for politicians and bureaucrats to spend while the budget is moving toward balance.

Congressional and White House negotiators should keep in mind that for parents with two children, the $1,000 tax cut they would receive under this plan could mean the difference between paying the mortgage and not. Indeed, as the table below shows, a $1,000 tax cut for the typical family with two children is enough to pay one month's mortgage and grocery bills, or 11 months worth of electric bills, or nearly 20 months worth of clothing for the children. In other words, a $1,000 tax cut is a significant amount of money for most families' household budgets.

WHAT THE $500-PER-CHILD TAX CREDIT MEANS FOR A FAMILY WITH TWO CHILDREN

Family budget item	Annual household cost for a family of 4	Monthly cost	How many months of this item can be purchased with $1,000
Groceries	$3,986	$332	3.0
Mortgage payment (principal, interest, and taxes)	7,972	664	1.5
Natural gas	333	28	36.0
Electricity	1,085	90	11.1
Telephone	803	67	14.9
Water	331	28	36.3
Children's clothing	612	51	19.6
Auto payments	3,325	277	3.6
Gasoline purchases	1,397	116	8.6
Health insurance	817	68	14.7
Medical services	749	62	16.0
Drugs and medical supplies	366	31	32.8
Personal care products and services	526	44	22.8
Educational expenses	739	62	16.2
Life and other personal insurance	557	46	21.5
Personal services (babysitting, child care, etc.)	536	45	22.4

Source.—Heritage calculations, based on Bureau of Labor Statistics, Consumer Expenditure Survey, 1992–93.

There are also sound policy reasons to cut taxes for families with children:

Families with children are overtaxed.—In 1948, the average American family with children paid only 3 percent of its income to Uncle Sam. Today the same family pays 24.5 percent.

Giving a family of four a $500-per-child tax credit is equivalent to giving them one month's mortgage payment.—The average family now loses $10,060 per year of its income due to the 45-year increase in federal taxes as a share of family income. This tax loss exceeds the annual mortgage payment on the average family home. The $1,000 in tax relief the congressional tax-cut plan would give to a family with two children would help this family pay one month's mortgage payment.

Millions of families stand to benefit.—The families of 51 million American children, or 28 million taxpaying families, are eligible for the $500-per-child tax cut.

Family tax relief helps families in every state.—The typical congressional district has some 117,000 children in families eligible for a $500 tax credit. Thus families in the typical district would receive $54 million per year in tax relief.

Congress' $500-per-child tax credit would eliminate the entire income tax burden for 3.5 million taxpayers caring for 8.7 million children.—These 3.5 million families will receive over $2.2 billion per year in tax relief. Families with two children earning up to $24,000 per year would see their entire income tax burden eliminated by a $500-per-child tax credit, and families with three children earning up to $26,000 also would have their income tax bill eliminated.

Most families are middle-class.—The $500 child credit plan will direct 89 percent of all benefits to families with adjusted gross incomes below $75,000 per year—middle-income by any standard—and over 96 percent to families with incomes below $100,000.

Cutting taxes for all families—regardless of income—is fair.—Congress' plan will cut the income tax burden of a family of four earning $30,000 per year by 51 percent and the income tax burden of a family earning $40,000 per year by 30 percent. Meanwhile, a family of four earning $75,000 would see their tax burden reduced by 12 percent, and a family earning $100,000 per year would receive a tax cut of just 7.4 percent.

Mr. CRAIG. Mr. President, I now yield 5 minutes to the Senator from Michigan, Senator ABRAHAM.

The PRESIDING OFFICER. The Senator from Michigan.

PROMISES TO BALANCE THE BUDGET

Mr. ABRAHAM. Thank you, Mr. President. I rise today to echo the comments made by my friend from Idaho and my friend from Alaska with respect to the President's decision to veto our Balanced Budget Act.

Mr. President, I am new to the Senate. I was elected last year, but for years I have followed the actions in Congress. I have observed the various people who came to Washington, including Presidents, and talked about how important it was to balance the budget. In fact, the President himself promised to balance the budget when he was a candidate in 1992. He promised to balance the budget in 5 years.

We have now gone 25 years without a balanced budget, 25 years of red ink, 25 years in which the people who ran for office promising to get the job done failed their fellow countrymen and constituents.

Over that period of time, a lot of finger pointing has gone on. Each side of the political arena has said, ''Well, it's the other side's fault.'' Yet during that time, no balanced budget was ever presented to a President by a Congress, and, as I recall, no President has come to Congress with a balanced budget. Instead, all we've had is partisan rhetoric.

[1] Tax Provisions in the Contract With America Designed to Strengthen the American Family, Hearings before the Committee on Ways and Means, U.S. House of Representatives, January 17, 1995 p. 30.

[2] Bureau of National Affairs, ''Conference Board, Arthur Anderson Polls Put Moderately Upbeat Face on Holiday,'' November 24, 1995.

[3] For taxpayers filing jointly with incomes above $110,000 the credit phases out at a rate of $25 for each $1,000 above the threshold (a range of $20,000), thus fully phasing out at $130,000 in income. For families with two children, the two credits this family is eligible for are fully phased out at $150,000 in income. For single filers, the credit begins to phase out at $75,000 in income.

This Congress has been different, Mr. President. This Congress has, for the first time during this period of red ink, actually acted on its campaign commitments, actually had come to Washington mindful of the needs of this country, and actually produced a balanced budget, not just a balanced budget resolution, not just a balanced budget conference report back in the spring and the summer, but a real balanced budget act which was passed in the House, passed in the Senate, and then adopted as a conference report just a few days ago.

So this President became the first President, as my colleague from Alaska said, in years to actually have on his desk a balanced budget bill. It was an opportunity to do what he said he would do in his campaign and what Presidents and Congresses have said they would do for decades, to fulfill their commitment to put the Federal Government's fiscal house in order.

Unfortunately, the President chose to veto this legislation. He chose to veto the balanced budget. I hope that by his actions, the American public now understands exactly why it has been so long since we have had a balanced budget.

I would like to speak just for a minute about what the implications are of this veto for a balanced budget for my State of Michigan, because we have been studying the statistics, and it is a very unhappy picture.

Had the President signed the Balanced Budget Act, we would see in our State a dramatic change in the well-being of our families. Two things would have happened that would be very good for the hard-working middle-class families of my State.

First, interest rates would begin to go down and go down substantially. And second, those families would be able to keep more of what they earned instead of sending tax dollars to Washington.

In terms of interest rates, Mr. President, we would be talking about an estimated $4,000 of savings annually on the mortgages paid by the families in my State. I do not know one family in my State that would not be able to put that $4,000 to good use for themselves and their children. We would be talking about something like $500 per year in savings for people who are paying student loans, and we would be talking about hundreds of dollars of savings for people who pay interest on their auto loans, not just in my State, I might add, but across the country.

For a State like Michigan which is so dependent on the sale of automobiles, that is especially good news. So in that sense, the impact on interest rates will have a rippling effect in my State which will undoubtedly mean fewer car sales and fewer jobs in the auto industry.

So for all of those reasons the people of Michigan are going to be disappointed by the President's action. But they are also going to be disappointed when they realize the President's veto also denied the families in my State substantial tax reduction, tax reduction that would have affected something in the vicinity of 1 million Michigan taxpayers.

In particular, they are going to be disappointed because the provisions we included in this legislation to provide a family tax credit are not going to be forthcoming as so many families in our State had hoped.

That $500 per child would mean that families in Michigan will spend more on the necessities of their life for their kids. We talk here in the Senate all the time about children and the need to help children. I cannot think of anything that would be more beneficial for the kids of our country than to provide $500 per child in the form of a tax credit so that their moms and dads can provide them with extra things they might need in the year ahead. So for that reason, families in our State, I think, are going to be extraordinarily disappointed.

Mr. President, I close by saying the President says he will finally come forward with a new budget plan. I hope this plan is different than the previous ones. From what I gather this morning in the media, that is unlikely to be the case. He says he has a balanced budget, but if you look at the portions already reported in the press, it is apparent his new plan will not get us to a balanced budget.

Indeed, it is implausible it is a balanced budget plan, since it appears it will only reduce spending over the 7-year-period of time we are discussing by approximately 2 percent.

I do not think there is anybody in this country who thinks the $5 trillion of debt we have run up and the hundreds of billions of dollars of annual deficits we have can be brought into balance simply by reducing total spending by 2 percent over 7 years. It simply does not add up, Mr. President.

These are funny numbers, and if the numbers presented by the President today correspond to the ones he offered in the previous budget, which received zero votes in the U.S. Senate, I think we all have to say, Mr. President, it is once again time to go back to the drawing board, time to go back and use real numbers, honest evaluations, and, hopefully, move in support of the Republican goal of a balanced budget that is going to help American families.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

THE PRESIDENT'S VETO OF THE BALANCED BUDGET ACT

Mr. CRAIG. Mr. President, I have been, for a few moments while the Senator from Michigan has been speaking, reading the wire story of the President's veto yesterday of the Balanced Budget Act of 1995. Let me quote from that some of the President's words. He said:

I have consistently said that if Congress sends me a budget that violates our values, I will veto it.

I say to the President of the United States, I find that a very curious statement, in view of the budget that we have sent to you and that you have vetoed. How, possibly, could it be wrong, or how possibly would it not be in your value system to want to leave as much money with the average American family as is possible? That is exactly what the Republican Congress has attempted to do in sending to you a Balanced Budget Act—to go directly at middle income America, to assure that they have enough money in their pockets to be able to feed their children, to be able to buy a home and pay their mortgages, and do so in a way that families of 10 or 15 or 20 years ago were able to do, and provide then for the future.

Mr. President, we all recognize the need to respond to the present, but we are terribly frustrated that you have not had the wisdom to look into the future, and to look into the future in a way that recognizes that reducing debt in this country, that reducing the annual Federal deficits and balancing the budget, that allowing the average American family to save, all mean a better future, mean that we truly are concerned about a generation that would be saddled with a debt that they had never had the opportunity to create, that the average child of today will look forward to an oppressive tax burden to pay off the $18,000 to $20,000 of their share of a Federal debt that a generation long before them had decided to spend on one program or another.

Mr. President, the budget that you vetoed yesterday was just as much about the future as it was about the present. The only problem is—and I can gain from your statement—that you are worried only about the present, about the instant gratification of the present, and your value system has, in some way, no capacity for dealing with the future.

The Senator from Michigan spoke a few moments ago and related to us the positive consequences of this budget on his State and the opportunities it created. Not for the very wealthy but for the average family of four, with a husband and wife, mother and father, working and bringing home $50,000 or $60,000 a year collectively, or less, and what that means to them if they start putting that $500 tax credit away on an annual basis for their children's future.

We looked at my State of Idaho, where a dollar still goes a little ways. If a young couple, a family, having that first child, starts immediately to put that $500 tax credit away in savings and puts it there for the child's future, what can that family buy for that child in the form of education in the coming years when that child is ready for college? Well, they can pay for more than 8 full years of college tuition and fees in our State university system—on an average, nearly 9 years, in today's dollars. By any calculation, that is a

bachelor's degree, a master's degree, and even a doctorate. That is what that kind of savings offers. That is how the Balanced Budget Act—which the President vetoed yesterday—would have empowered Idaho's families.

Even in the ivy league schools, this tax credit buys a year or a year and a half of schooling across this country. That is a tremendously significant value to the average American family who holds the dream that their children are going to do better than they have done, and they are going to help provide for that child.

In my largest metropolitan county of Idaho—and Idaho is not very metropolitan—it is a large State with only about 1.3 million people in it—but in that metropolitan county of now over 300,000, Ada County, which includes Boise, there are over 50,900 children that would qualify for the $500 child tax credit. What does that mean over this period of time, from now through the year 2002, about putting spendable income back into that community? It puts back into that community $144 million worth of spendable income over the next 7 years. I will tell you, under anybody's estimation—but especially in the State of Idaho—that is a lot of money. That is a tremendous opportunity for that community to grow, for those families to prosper, to buy a new home, to buy a car, and do all of the kinds of things that fulfill the American dream.

Mr. President, I am not quite sure what is in your value system, but I know that there is no future image, there is no vision for America's tomorrow, if you are willing to veto the balanced budget that we have sent to you. You have vetoed a balanced budget that not only deals with today's needs but, for the first time in the years that I have had the privilege of serving Idaho in the U.S. Senate, it looks into the future.

For a few moments, let us talk about that future in some real ways, in a national perspective, about the kind of money in the average family's pocket that is offered through a balanced budget with tax relief. We would see a decline in interest rates of well over two points—and that is not some exaggeration by the Senator from Idaho, that is according to national econometric modeling, which shows that if you get the budget into balance, the economy of this country begins to respond a great deal better. Why? Because the Federal Government is taking less money out of it. And the average American family has more money to spend and that generates jobs, and that multiplies the kind of economic activity that we always have seen in this country, which has, again, produced more revenue for Government under stable taxing situations.

For example, a decrease of 1.4 percent in the conventional mortgage rate—and we know it could decrease a good deal more than that—means the relief of nearly $10,000 over the life of a 30-year mortgage. The Balanced Budget Act says to the American family, You have greater buying power. It says that an additional 104,000 new family homes would be constructed and purchased in that 7-year period of reduced growth in Federal spending and a balanced budget. Under anybody's estimation, that is big bucks for the economy. It benefits not just the family purchasing the home, but hundreds of thousands of workers—carpenters, carpenters' helpers, masonry workers, and plumbers—that build the homes for Americans that are going to be employed.

Mr. President, what is your vision for the future? Obviously, it is not 104,000 new family homes. What about those men and women who work in the automobile industry of our country? It is estimated, by those same studies from the Heritage Foundation, that over 600,000 additional automobiles could be manufactured and purchased by the American family in this 7-year period. That is $10 billion worth of expenditures. I do not know how you think, Mr. President, but I know how the folks of Idaho think. They want to keep ahold of their own money. They want the right to spend the money they earn. They do not believe that transferring it to the Federal Government and giving the Federal Government the opportunity to spend it on something that the Federal Government would wish is the better way to manage it.

Well, those are some extremely valuable and important figures that are all tied up in this balanced budget that the President has now vetoed. So, Mr. President, while your budgeteers are coming to the Hill on a regular basis now and are to bring with them your vision of a balanced budget and your proposal that the House and the Senate and the White House will now sit down to try to work out the differences on, there is one thing that is nonnegotiable and that is a 7-year balanced budget. That is the kind of tax relief that truly builds incentives in the economy to keep our economy going, to keep it prospering, to create new jobs, and to allow the American working family more and more opportunity by being able to keep more of their hard-earned income.

A lot of people have criticized the idea of leaving the American family with more money. If we had, by our own studies, left the American family the same kind of spending opportunities that they had in 1950 when the Government was taxing a great deal less of the gross income of the average working family, I would tell you that it would not be a $500 tax credit today, it would be well over triple that amount. That is how much we have eroded the spending ability, the keeping ability, the savings ability of the American family by progressively taking away from them for what has been allegedly a better cause—more of their money to be spent by Government.

These are very important issues, Mr. President. There is more at stake here than just the pulling out of an old antique pen that started the great welfare society of our country that has well run out of ink, and trying to find ink to veto an effort of reform that the American public spoke to last November.

Mr. President, it is significant what has occurred in this country. It is significant that the American people have spoken overwhelmingly in favor of balancing a Federal budget.

Back in 1982, when I served in the U.S. House of Representatives, I became one of those leaders pushing a balanced budget amendment to our Constitution. That was long before the debt was as big as it is today, or the deficit seemed to become a static deficit of around $200 billion on an annualized basis.

Those were the years we really felt it was important to get the budget under control. As we fought to do so, one thing began to happen: The American people began to listen. They recognized, as they saw the debt of this country grow and as they saw a Congress unwilling to wrestle with the real meaning of a debt and to bring Federal spending under control, that somehow the American public was going to have to do it.

I think the citizens of this country truly believe that this is their Government. By the action of their vote, they will tell those of us who represent them in their Government how we should act.

That is exactly what I believe the American public did last November when they changed the 40-year-old Democratically-controlled House into a House with a Republican majority and they put Republicans in a majority here in the U.S. Senate. They said very, very clearly, ''Mr. President, Congress, balance the budget, and do so in a way that is meaningful. Not the kind of games that have been played historically over the last three decades. We want you to show us for the first time that you can and will balance the budget.''

And, Mr. President, that is exactly what the Republican Congress has done. They sent to the President a balanced budget, and this President, lacking a vision and lacking an image for the future, vetoed it.

Mr. President, I yield to the Senator from Oklahoma for such time as he might consume.

Mr. INHOFE. I appreciate the Senator yielding to me. I think it is very symbolic and appropriate, the pen that the President used to sign the veto message yesterday was, indeed, the pen that had been used during the Great Society days that started this shift in attitude in Government, so that Government has a greater responsibility for all of us, beginning back in the 1960's.

I think the fact that he is using that pen to veto the Balanced Budget Act of 1995 is a very interesting occasion, because that is the date that all of this started.

I remember it so well because I was serving at that time in the State legislature in Oklahoma. We were so concerned at that time because the year that I am thinking of our total debt was $200 billion. I remember on a TV ad they were trying to impress upon the people of America how much money that was so they had $100 bills they were stacking up until it got to the height of the Empire State building. That is what our debt was.

Of course, now that is what our annual deficit is, has been, and what our annual deficit would continue to be under any budget that the President has come forth with.

I am going to keep an open mind. I am hoping the President will come forth with something that will keep his commitment that he made during the vote on the continuing resolution a couple weeks ago when he said that he agreed to come up using real numbers, CBO numbers, with a balanced budget by the year 2002.

And I agree with the Senator from Idaho that it is so incredibly significant that we do this and do this now. I have said several times on the floor, I do not believe if we pass up this opportunity there will be another opportunity in my lifetime to have a balanced budget or to seek a balanced budget so we can then start working on reducing the debt that we have piled up in this country.

Again, I do not look at this as a fiscal issue. It should not be looked at as a fiscal issue. And every time the liberals, holding on with white knuckles to the past, to the 1960's, to the programs where Government has the responsibility—an entitlement—to take care of people from the cradle to the grave, that Government cannot afford to do it.

I look at it as a moral issue when I look at my three grandchildren and realize that statistically—and this can all be documented—if we do not do something to change the course that we have set upon, that any child, including my three grandchildren, who is born in this particular time, will have to spent 82 percent of his or her lifetime income just to service and support Government.

This is morally wrong. For all those people, including the President, trying to hold on to the past, we will win this. When the Senator from Idaho said, and I heard the Senator from Wyoming earlier say, this was a mandate and the elections of 1994—it is clearly a mandate. All the postelection surveys show very clearly of all the mandates that came with that election, that totally transformed the makeup of the House and the Senate, it was a mandate to balance the budget.

We are committed to doing that. We will do everything within our being to see that it happens.

Mr. President, I only have one comment on another subject because I think it is critical that the Senators are all aware that there is going to be a vote prior to the 14th having to do with the President's program to deploy troops on the ground in Bosnia.

Yesterday at the Senate Armed Services Committee some very revealing things occurred. We had Secretary Perry and General Shalikashvili, the two top people representing the President and his programs to send troops into Bosnia on the ground. They testified. During their testimony, Secretary Perry was talking about all the peace that has existed in the Tuzla area, that northeast sector of Bosnia; General Shalikashvili was talking about how similar and what a fine job they have done in the training of our troops in the very famous 6- by 12-mile box in Germany and how that so nearly equated to the actual environment in Bosnia.

When it came time to cross-examine, I asked General Shalikashvili, ''Are you aware that the conditions in which you are training these people do not even resemble the conditions in the northeast sector?''

He said, ''No.''

I said, ''Tell me when the last time you were there was.''

At that we discovered, Mr. President, that the man who is the Chairman of the Joint Chiefs of Staff, the architect of the program to send Americans in on the ground in Bosnia, had never been to that part of Bosnia where he is proposing to send our troops.

When Secretary Perry talked about the peace that had been in effect there I asked him a question. I said, ''I was in the Tuzla area. I wore a shrapnel jacket. I wore a helmet. We could hear the automatic weapons going off. This is supposedly during a cease-fire. Where is this peace you are talking about, and when is the last time you, Secretary Perry, were in Bosnia?''

He said he had never been there, either.

For the first time I realized why there is such a disregard for the hostility of the area that we are talking about sending our troops in. It is because they have not even been there.

I just want to serve notice and make sure that all Senators can be thinking about how they will vote on a very simple straight-up resolution that merely says we disapprove of the President's program to send ground troops into Bosnia.

Of course that does not mean we are disapproving support of the troops. We support our troops wherever they might be. I think we can certainly perform air operations that would be of support to that exercise, without endangering the lives of our Americans.

Back on the budget, I am convinced that this is our last time in my lifetime that we will have to correct a problem that began in the 1960's, that those individuals—the liberals here in this body and the other body and the President of the United States—are trying to hold on to, as I said before, with white knuckles.

I commend the Senator from Idaho for all the efforts he has made and the leadership he has shown in this effort.

Mr. CRAIG. Mr. President, in closing, I ask unanimous consent to have printed a document from the Heritage Foundation study of the impact of a balanced budget in tax reductions on the average family.

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

WHAT A BALANCED FEDERAL BUDGET WITH TAX CUTS WOULD MEAN FOR FAMILY COLLEGE COSTS

(John S. Barry, Research Assistant)

Congress's balanced budget with tax relief legislation will allow families with children to save more money for higher education. A balanced budget with tax cuts also will lead to lower interest rates which will benefit students by lowering the cost of student loans. Both of these consequences of balancing the budget over seven years with tax relief mean more highly skilled Americans for future workforces. These are the findings of an analysis by The Heritage Foundation using one of the principal econometric models of the U.S. economy.

According to this statistical analysis, the Balanced Budget Act developed by Congress would mean:

American families, over time, could save an additional $14,066 per child in today's dollars to fund college education costs as a result of the $500-per-child tax credit. This would cover the full tuition costs at a typical public university today.

An average student could save more than $414 over the life of a 10-year student loan as a result of lower interest rates.

Economists at The Heritage Foundation conducted an interim econometric analysis of the congressional balanced budget plan using the economic model developed by Laurence H. Meyer & Associates, a nationally recognized economic consulting firm.[1] The Meyer model is used by many major public agencies and private firms, such as the President's Council of Economic Advisers, the Office of Management and Budget, the Board of Governors of the Federal Reserve, and the Congressional Budget Office.[2]

INCREASED FAMILY SAVINGS FROM $500-PER-CHILD TAX CREDIT

The high cost of a college education prices many families out of the higher education market or forces students and parents to incur large amounts of debt to cover the costs of college.

The $500-per-child tax credit included in the Balanced Budget Act of 1995 would benefit more than 28 million families raising some 51 million children and could allow many families to save enough money to send their children to college. A family that chooses to dedicate the entire $500-per-child tax credit to savings for higher education would accumulate about $14,066 in today's dollars over 18 years for each child's education. Thus, a family with two children would be able to save an additional $28,132 for college expenses. In today's dollars, an additional $14,066 per child in family savings for education amounts to: Five full years' tuition and fees at an average public university; one full year's tuition and fees at an average private university; or more than the

[1] William W. Beach and John S. Barry, ''What a Balanced Federal Budget with Tax Cuts Would Mean to the Economy,'' Heritage Foundation *F.Y.I.*No. 69, November 14, 1995.

[2] Laurence H. Meyer & Associates long has earned top honors for forecasting accuracy when compared against similar firms. In 1993, it won the ''Blue Chip'' forecasting award for the years 1989–1992. Laurence H. Meyer & Associates was ineligible for the award in 1994, but again was rated the most accurate forecasting firm in the United States.

difference between the four-year cost of an average public university and the two-year cost of an average public community college.

LOWER STUDENT LOAN INTEREST RATES

The economic simulation conducted by analysts at The Heritage Foundation indicates that households and businesses would face lower interest rates under the congressional balanced budget and tax cut plan than under current budget and tax policy. Lower interest rates also would benefit students with student loans. A student beginning his or her education in 1996 would face interest rates that averaged half a percentage point below what is expected under current law: a savings of $414 over the life of an average ten-year student loan.[3] More young Americans will be able to afford a college education as a result of these savings. In addition, some students who otherwise would have to defer their education plans could enter college earlier, thus increasing their lifetime earnings.

Alternatively, lower interest rates would allow students to borrow more money for education at the same effective cost. In essence, students would be able to purchase more education for the same price. The additional $414 might be used for such things as: One full year of books and supplies; two additional courses at an average public university; or about one-third the cost of a personal computer.

TECHNICAL ASSUMPTIONS

For assumptions that underlie the econometric simulation of the congressional balanced budget legislation, see William W. Beach and John S. Barry, ''What a Balanced Federal Budget with Tax Cuts Would Mean to the Economy,'' Heritage Foundation *F.Y.I.* No. 69, November 14, 1995.

For purposes of calculating the amount of savings from a $500-per-child tax credit, it was assumed that the money was placed in a super-IRA (as defined by the Congressional Budget Resolution of 1995) earning a real rate of return of 5 percent per year.

The initial rate of interest charged for a student loan was assumed to be 8.25 percent. The 0.5 percent figure is an average decrease below baseline for the life of a ten-year student loan. This 0.5 percent decrease was projected in the above-cited econometric simulation.

A FAMILY SAVING THE ENTIRE $500 PER CHILD TAX CREDIT FOR 18 YEARS COULD ACCUMULATE $14,066: PAYING FOR THEIR CHILD'S EDUCATION AT AN AVERAGE PUBLIC UNIVERSITY OR MORE THAN A YEAR'S WORTH AT A TYPICAL PRIVATE UNIVERSITY

	Public university	4 year cost	Years of savings from the $500 tax credit will buy	Private university	4 year cost	Years of savings from the $500 tax credit will buy
Alabama	U. of Alabama at Birmingham	$10,044	5.6	Spring Hill College	$48,492	1.2
Alaska	U. of Alaska Fairbanks	9,952	5.7	Sheldon Jackson College	37,520	1.5
Arizona	U. of Arizona	7,576	7.4	Prescott College	39,840	1.4
Arkansas	U. of Arkansas	9,208	6.1	John Brown University	28,344	2.0
California	U. of California—Los Angeles	15,572	3.6	Loyola Marymount University	55,072	1.0
Colorado	U. of Colorado at Boulder	10,796	5.2	Regis University	51,040	1.1
Connecticut	U. of Connecticut	18,848	3.0	Saint Joseph College	48,800	1.2
Delaware	U. of Delaware	16,400	3.4	Wesley College	41,180	1.4
Florida	Florida State University	7,192	7.8	Barry University	45,160	1.2
Georgia	U. of Georgia	9,408	6.0	Mercer University	47,952	1.2
Hawaii	U. of Hawaii	6,228	9.0	Chaminade University of Honolulu	42,400	1.3
Idaho	U. of Idaho	6,192	9.1	Albertson College of Idaho	55,808	1.0
Illinois	U. of Illinois at Chicago	14,792	3.8	Loyola University College	46,000	1.2
Indiana	Indiana University—Bloomington	13,492	4.2	Huntington College	40,800	1.4
Iowa	U. of Iowa	9,820	5.7	Drake University	53,680	1.0
Kansas	U. of Kansas	8,152	6.9	Benedictine College	38,640	1.5
Kentucky	U. of Kentucky	10,040	5.6	Centre College	48,800	1.2
Louisiana	U. of New Orleans	12,208	4.6	Loyola University in New Orleans	45,380	1.2
Maine	U. of Maine	14,644	3.8	Westbrook College	46,600	1.2
Maryland	U. of Maryland College Park	13,920	4.0	Loyola College	52,720	1.1
Massachusetts	U. of Massachusetts—Amherst	21,868	2.6	Regis College	50,800	1.1
Michigan	U. of Michigan—Ann Arbor	21,888	2.6	Northwood University	38,660	1.5
Minnesota	U. of Minnesota Twin Cities	13,568	4.1	Saint Mary's College of Minnesota	43,520	1.3
Mississippi	U. of Mississippi State University	10,244	5.5	Millsaps College	47,616	1.2
Missouri	U. of Missouri Columbia	13,776	4.1	Saint Louis University	43,880	1.3
Montana	U. of Montana—Missoula	8,032	7.0	Carroll College	35,760	1.6
Nebraska	U. of Nebraska at Lincoln	9,660	5.8	Creighton University	43,856	1.3
Nevada	University of Nevada Las Vegas	6,960	8.1	Sierra Nevada College	36,200	1.6
New Hampshire	U. of New Hampshire	18,236	3.1	Daniel Webster College	49,648	1.1
New Jersey	Rutgers University	17,828	3.2	Seton Hall University	47,200	1.2
New Mexico	U. of New Mexico	7,536	7.5	College of Santa Fe	45,512	1.2
New York	SUNY at Albany	11,744	4.8	Saint Johns University-New York	39,200	1.4
North Carolina	U. of North Carolina at Chapel Hill	6,096	9.2	Wake Forest University	55,400	1.0
North Dakota	U. of North Dakota	9,712	5.8	Jamestown College	30,480	1.8
Ohio	Ohio State University	12,348	4.6	University of Dayton	47,320	1.2
Oklahoma	Oklahoma State University	7,568	7.4	University of Tulsa	47,000	1.2
Oregon	U. of Oregon	13,032	4.3	University of Portland	48,800	1.2
Pennsylvania	Pennsylvania State University	20,144	2.8	Drexel University	52,304	1.1
Rhode Island	U. of Rhode Island	16,968	3.3	Bryant College	50,400	1.1
South Carolina	U. of South Carolina at Columbia	12,784	4.4	Wofford College	50,720	1.1
South Dakota	U. of South Dakota	10,320	5.5	Augastana College	44,460	1.3
Tennessee	U. of Tennessee—Memphis	9,916	5.7	Maryville College	45,400	1.2
Texas	Texas A&M University	7,080	7.9	Rice University	41,600	1.4
Utah	U. of Utah	9,524	5.9	Westminster College of Salt Lake City	35,280	1.6
Vermont	U. of Vermont	26,608	2.1	Trinity College of Vermont	45,080	1.2
Virginia	U. of Virginia	17,920	3.1	Washington and Lee University	55,540	1.0
Washington	Washington State University	11,632	4.8	Gonzaga University	52,000	1.1
West Virginia	West Virginia University	8,512	6.6	University of Charleston	38,000	1.5
Wisconsin	University of Wisconsin—Madison	10,948	5.1	Marquette University	46,440	1.2

Note.—All figures are in 1994 dollars.

Source.—School costs from Department of Education, ''Projections of Education Statistics to 2003.''

Mr. CRAIG. Mr. President, let me close by saying to the President of the United States: Mr. President, stand forward and tell the truth to the membership of Congress and to the American people. Tell them that this budget does, in fact, protect Medicare; that the average recipient today is receiving $4,800 in benefits; and that under the budget you just vetoed that average recipient by the year 2002 will receive $6,700 in benefits. That is a 7-percent annual increase.

Mr. President, tell the truth about the budget that you vetoed. What we heard from you yesterday was not a vision of the future, but was looking back into the spoiled American dream of big Government and big debt that somehow you hung yourself to, that does not represent the kind of opportunity that the American family wants and deserves.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

MEASURE PLACED ON THE CALENDAR—S. 1452

Mr. CRAIG. Mr. President, I understand there is a bill on the calendar that is due for its second reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S.1452) to establish procedures to provide for a taxpayer protection lock-box and related downward adjustment of discretionary spending limits and to provide for additional deficit reduction with funds resulting from the stimulative effect of revenue reductions.

[3] This is based on a student loan of $13,044, the average cost of a public university, at an initial interest rate of 8.25 percent. The Heritage Foundation econometric analysis assumes that the Federal Reserve System makes no change in the reserve requirements of its member banks and refrains from stimulating the economy by increasing the growth of monetary reserves. This assumption means a relatively smaller decrease in interest rates. Thus, the 0.5 percent decrease can be viewed as a conservative estimate of the potential savings to a student from lower interest rates.

Mr. CRAIG. Mr. President, I object to the further consideration of the matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

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

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

BUFFALO COMMONS MEMOIRS: TALES FROM THE PRAIRIE

Mr. PRESSLER. Mr. President, I want to take a moment to commend an outstanding South Dakota writer, Lawrence Brown of Buffalo, SD. Lawrence is a South Dakotan who has put his appreciation for his State down on paper. His book, ''Buffalo Commons Memoirs,'' brings to light life on the upper plains and the reasons why life in America's heartland is so rewarding.

As I read ''Buffalo Commons Memoirs,'' I was reminded of my own experience growing up on a farm in Humboldt, SD. As some of my colleagues know, life on a farm is not always easy. Early mornings and late nights during planting and harvest seasons come with the territory. However, Lawrence Brown reminds us correctly that hard work builds character. Although Lawrence grew up on the farm at an earlier time, I am pleased to note the same solid Midwestern work ethic has been passed on to today's young South Dakotans.

Mr. President, Lawrence writes in his chronicles that he chose to spend his life in a small city in western South Dakota. Lawrence, like so many South Dakotans, particularly new residents who have moved from other States, has realized that South Dakotans recognize the important things in life—the values of family, friends and community. Mr. President, I am proud to represent people such as Lawrence Brown—people who appreciate the things in life that matter most, and live each day to its very fullest. I would like to share an excerpt from Lawrence Brown's book with my colleagues. I am confident that they, too, will enjoy Lawrence's entertaining work. I ask unanimous consent to have printed in the RECORD a section from ''Buffalo Commons Memoirs.''

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

Perhaps some grandkid some time may be interested in my autobiography, but for a relatively obscure aggie, sheepherder, rancher and plainsman the personal aspect of this project is probably pointless. To validate the effort it must portray some history and some custom and culture of this corner of America.

A record of bits and pieces of history beyond scientific or political data can give us an insight into where we have been. And where we have been may give us some direction on where we should go. It may even guide us on how to get there. Beyond that, it could also tell us that our expectations are too high and maybe we should be satisfied with what we have, who we are, and where we are.

Hardly a personal visit or social call goes by but we have gained something from the other's recent or distant past.

Most of our history lies out in area cemeteries never to be retrieved or vouched for accuracy. If there is anything to a psychic connection, it would have to be part of our memories as they relate to people we once knew. Certainly, if we give some thought to friends who have gone over that great divide, a memory will come back of a shared conversation or experience. There is nothing supernatural about that.

One problem that I run into is the experts of English and Grammar. As I pass my stuff along for critique, I run into those who either went to more school than I or paid more attention while they were there. Good grammar is a wonderful art and I admire people who can combine it with the delivery of a message. But well-meaning people have corrected and rephrased some of my stuff until the meaning was gone. Anyone who has ever tried to read a government document has no doubt discovered that literary correctness and the delivery of information are not necessarily compatible.

TRIBUTE TO OLIN BROOKS

Mr. HEFLIN. Mr. President, I rise to pay tribute to Mr. Olin Brooks, who is retiring this month from the Bankruptcy Administrator's Office. He is the estate analyst in the Anniston Bankruptcy Administrator's Office for the Eastern Division of the Northern District of Alabama.

Born in 1933, Olin attended Woodlawn High School in Birmingham. After high school, he served in the U.S. Air Force for 2 years. He later attended Auburn University, receiving his bachelor of science degree in 1959 and his law degree from the Birmingham School of Law in 1970.

From 1959 until 1962, he worked for the State of Alabama Department of Revenue as a revenue representative. He worked for the Internal Revenue Service from 1962 through 1987, eventually moving into a management and advisory position in the Bankruptcy Division of the IRS Special Procedures Office.

I am pleased to commend and congratulate Olin Brooks for his many years of service to his State and Nation. I wish him all the best for a long and happy retirement.

TRIBUTE TO FRANCES MARION GRANT BENNETT

Mr. HATCH. Mr. President, I wish to pay tribute to an extraordinary woman, Frances Marion Grant Bennett. On November 17, 1995, Frances passed away leaving behind an incredible legacy of service and love.

Frances comes from and leaves behind a remarkable heritage. She was born in Salt Lake City, UT, on September 23, 1899, and was the last surviving child of the late Latter-day Saints Church President Heber J. Grant, and his wife Emily Wells Grant. She was also the wife of a U.S. Senator, Wallace F. Bennett, who served for 24 years in the U.S. Senate; and was the mother of five children, including Robert F. Bennett, currently serving in the U.S. Senate. In addition, she was the grandmother of 29, and the great-grandmother of 74. Her family members adore, praise, and love her with all of their hearts.

Frances was an accomplished musician. She was a gifted pianist and student. She received a bachelor's degree in music from the University of Utah, and studied at Radcliffe College. She taught music at the University of Utah before her marriage to her husband.

Frances was a tireless worker. She served for many years on the general board of the Primary Organization for the Church of Jesus Christ of Latter-day Saints. In this capacity she was able to positively influence thousands of children's lives through her kindness, words of wisdom, and love and affection. As a board member, Frances chaired the fundraising committee to build the Primary Children's Hospital in Salt Lake City, now the finest children's hospital in the Intermountain West. The significance of her work in this area can never be measured. Thousands of children each year from across the United States are treated and helped at this Children's Hospital. I am sure that there are many mothers and fathers, as well as little children, that would thank Frances for her undying efforts on their behalf.

In Washington, DC, Mrs. Bennett was a supportive and helpful partner to her husband during many years of public service. She served as president of the Congressional Club, a group of congressional wives. She wrote about many of her experiences in Washington, and with her family, in her autobiography, ''Glimpses of a Mormon Family.''

Mrs. Bennett's friends describe her as gracious, gentle, regal, and warm. When you met her, her goodness was immediately apparent. She treated people with great kindness and respect. She raised a wonderful family, and will be missed by all.

Mr. President, Utah was fortunate to have Frances Marion Grant Bennett as a citizen. She was truly a fine woman, talented musician, wonderful wife and mother, and devoted American. I feel fortunate to have been able to associate with her and learn from her example.

REMEMBERING RICHARD HALVERSON

Mr. HATCH. Mr. President, I was deeply saddened last week when I learned of the death of our beloved former chaplain, the Rev. Richard C. Halverson.

Reverend Halverson served as Chaplain of the Senate for 14 years, assuming this post on February 22, 1981. He

retired on February 5, 1995. I regret that his retirement, the time he had so looked forward to spending with his family and many friends, was cut so short.

But, the time and service he gave to the Senate will always be appreciated by those of us who benefited from his positive outlook and his constant good humor. Rarely was Dr. Halverson seen by Senators, staff, or support personnel without a smile and a ''God bless you.''

And, perhaps the one thing I admired most about Dr. Halverson was the fact that he served not only the institution of the Senate, but also Senators as individuals. He could see beyond policy debates, beyond partisan politics, beyond institutional glamour and mire. He could look beyond our roles on this great international stage and help us carry the burdens we felt as husbands or wives, parents, neighbors, or friends.

Though ordained as clergy in the Presbyterian denomination, his ministry reached out to us all. Catholic, Jew, Methodist, or Mormon, Dr. Halverson helped us all to remember that our walk in faith was infinitely more important than any legislative battle of the moment.

Like all Senators, I mourn the death of this man of God, but give thanks for the opportunity to have known him and to have served this body with him. I join my colleagues in extending heartfelt sympathy to his family.

THE CONTINUING RESOLUTION AND THE LABOR, HHS, AND EDUCATION APPROPRIATIONS BILL—H.R. 2127

Mr. SPECTER. Mr. President, as chairman of the Labor, HHS, and Education Appropriations Subcommittee, I want to update the Senate on the status of the Labor, HHS, and Education appropriations bill, H.R. 2127, as it relates to the continuing resolution and the implications of the Senate's inaction on the bill for programs of the Department of Labor, HHS, and Education. In particular, I want to focus on the need to free up low-income energy assistance funds, which are so crucial at this time of year, when winter descends upon cold water States.

As Senators know, the Labor, HHS, and Education appropriations bill for fiscal year 1996 is still on the Calendar. Efforts to bring it up in the Senate have been met with a filibuster due to the ''striker replacement'' provision and the abortion issue. I opposed the ''striker replacement provision being added to the bill in committee, because of the view that controversial legislative riders do not belong on an appropriation bill, but should be considered through the authorization process. In the case of the Labor, HHS, and Education appropriations bill, the legislative riders included by the House have stalled action on this important bill in the Senate, and indefinitely postponed funding for education, health, job training, and social service programs in this fiscal year.

While the continuing resolution will ensure that some funding will be available for these programs, it is only on a short-term basis and at a minimal level. But, in some cases, the CR level effectively eliminates the viability of the program. The LIHEAP Program is one such example. LIHEAP provides funds to States to help low-income households meet their fuel bills during the winter months when costs soar due to cold weather. A high percentage of the program's beneficiaries are elderly and disabled people who need help in paying their fuel bills.

Mr. President, it is already very cold in many parts of the Nation. Our reliance on continuing resolutions since October 1 has put LIHEAP funds in jeopardy. Under the terms of the continuing resolution, $231 million has been made available to the States. This is far short of the nearly $600 million already requested by the States to get through the first quarter of the fiscal year. In previous years an average of 60 percent of the annual appropriation for LIHEAP has been allocated to the States in the first quarter, and 90 percent by March 30.

Many States have begun receiving requests for assistance, and under normal circumstances would begin distributing funds to participants at this time. However, because of the present stalemate in the Senate on the Labor, HHS, and Education appropriations bill, States have no idea how to plan for this winter's program, and hundreds of thousands of low-income families are left wondering how they will be able to meet their winter heating bills. Low-income households, as well as Governors and local officials across the country are waiting to learn whether, and how much, funding will be appropriated for this winter's LIHEAP Program.

For low-income residents of cold-weather States like Pennsylvania, winter can mean choosing between eating and heating. We must not let our budgetary stalemate in the Nation's Capitol unduly burden the poor and elderly with respect to such a basic need as heated homes and apartments.

I have supported the previous continuing resolutions because they provide critical short-term funding for Federal activities. But I want to make clear, it is time for the Senate to act on the Labor, Health and Human Services, and Education appropriations bill. Let's stop the filibuster, agree to bring up the bill, debate it, and let the Senate work its will.

In the meantime, it is imperative that the harsh restrictions on funding for LIHEAP be lifted. It is unfair to hold hostage essential assistance to the poor and elderly in cold weather States as Congress continues to deliberate on the budget.

Mr. President, winter's cold knows no political affiliation. The LIHEAP Program has had years of bipartisan support. Now is the time for all Senators to work together to ensure that our constituents in need are not denied heating assistance this winter.

Thank you, Mr. President. I yield the floor.

TRIBUTE TO WILLIAM K. SAHR, LEGAL CHAMPION

Mr. PRESSLER. Mr. President, the legal profession in my home State of South Dakota has lost a great counsel. Bill Sahr, a long-time friend and supporter, passed away on Monday. I will miss him.

For many years, Bill headed the State Bar of South Dakota. In that capacity, he epitomized the very best of the legal profession in our State. An indefatigable worker on behalf of the legal community, Bill also served the people of our State and Nation with great distinction.

Bill's public service career began with a memorable tour of duty with the U.S. Army during World War II. During the war, he was with the troops at the Battle of the Bulge, later receiving four battle stars along with his European Medal. Beginning his legal career in our State's capital, Pieree, Bill later served two terms as State's attorney from Hughes County. In 1962, Bill began walking the two blocks from the lovely historic home he shared with his wife Carla and their children to the State capitol, where he served two terms as a legislator.

His legal background, coupled with his legislative experience, made Bill a perfect candidate to head the State Bar of South Dakota. Bill played a major role in shaping and bringing into being South Dakota's present-day legal system. It is hard to imagine anyone who had more influence on the legal system and the profession of law in our State than Bill Sahr.

In addition to being a great professional, Bill Sahr was a great individual. He had a quiet demeanor coupled with a keen intellect and sharp wit. You could count on his word. Bill's engaging smile made you want to stay and listen to him while he worked his quiet, highly effective powers of persuasion upon you.

During his threescore and eleven years on this earth, Bill Sahr accomplished the work of several lifetimes for the profession he loved and the people of South Dakota. Bill Sahr—a legal legend of our State—will be truly missed.

I ask unanimous consent that the obituary for Bill Sahr from the December 5, 1995, edition of the Sioux Falls Argus Leader be printed in the RECORD.

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

[From the Argus Leader, Dec. 5, 1995]

SAHR, 71, WORKED HARD TO HELP JUDICIAL SYSTEM

(By Denise D. Tucker)

PIERRE.—With a quiet and unassuming manner, Bill Sahr often stood in the shadows and rarely took credit for the work that he did in shaping the South Dakota legal system.

''He had a hand or influence on every lawyer in the state for 35 years,'' said Thomas Barnett, executive director of the South Dakota Bar Association in Pierre.

Sahr, 71, who was serving as secretary-treasury of the State Bar Association, died Monday, Dec. 4, 1995, at his home, due to lung cancer.

''He had a history of over 30 years in Bar leadership,'' said Barnett. ''I was fortunate to work with him through most of my career.''

During his career, Sahr, through the Bar Association, established the nation's first prepaid continuing legal education; he spearheaded legislative approval for passage of funding for a new University of South Dakota Law School; and worked for improvement of judicial compensation.

He also introduced the first bill for a state employee retirement system. ''This was a biggie for the state,'' said Sahr's son, Dan of Sioux Falls. ''Before that there was nothing for state employees.''

Barnett said, ''He worked to serve the people of South Dakota. He was instrumental in lobbying pieces that helped everybody.''

Beresford attorney Robert ''Bob'' Frieberg acknowledged Sahr's contribution to the state.

''His influence shaped the Bar, judiciary and modern legal system in South Dakota,'' he said. ''His was the biggest influence of a single person.''

Frieberg said that Sahr was committed to improve the legal system whenever he could.

Although he didn't know for sure, Frieberg believed that Sahr had a sense that he had an obligation to leave the world better than he found it.

''He was just a neat guy,'' he said. ''One of a kind. I'm gonna miss him.''

With a tear sliding down his face, Frieberg added, ''He was a great friend.''

Sahr's legal career began in 1957, when he opened a law practice in Pierre. He served for two terms as the Hughes County States Attorney, from 1958 to 1962. He then served two terms in the South Dakota House of Representatives, from 1962 to 1967. He was elected in 1961 as secretary-treasurer of the state Bar. He retired on July 31, 1989, from his position as executive director of the Bar Association, after 28 years with the organization.

William Karcher Sahr was born July 21, 1924, in Pierre. He attended Pierre Public School and was graduated from Lake Forest Academy, Lake Forest, Ill., in 1942.

He served in the Army from 1943 to 1946, during World War II. He served in the Battle of the Bulge. He received the European Medal with four Battle Stars.

In 1954, he graduated from Northwestern University in Evanston, Ill., and from its law school in 1957.

He married Carla Aplan in 1953.

From 1973 to 1978, he was a member of the Pierre Board of Education. He also served on the St. Mary's Hospital Law Advisory Board, president of the Pierre Carnegie Library Board for 19 years, and on the Pierre City Board of Adjustment for 10 years.

He was a member of the Pierre Area Chamber of Commerce, American Legion, VFW, the Elks Club, Sts. Peter and Paul Catholic Church, the American Bar Association, the Jackrabbit Bar Association, and the National Association of Bar Executives.

He received a Recognition Award from the University of South Dakota Law School in 1982, the Appreciation Award from the South Dakota Trial Lawyers Association, and the McKusick Award from the USD School of Law in 1987.

''He was proud of this,'' Dan Sahr said, of his father receiving the McKusick Award.

The award recognizes an outstanding member of the South Dakota legal community for contributions to the profession.

In addition to his wife and son, survivors include four other children: James, Los Angeles; Marguerite Moreland, Littleton, Colo.; Elizabeth Squyer, Sioux Falls; and Robert, Boulder, Colo.

Services, for Sahr, begin at 11 a.m. Thursday in Sts. Peter and Paul Catholic Church in Pierre, with burial in Riverside Cemetery.

Visitation will be from 3 to 9 p.m. Wednesday in the Feigum Funeral Home in Pierre. Prayer service begins at 7:30 p.m. Wednesday in the funeral home.

The family requests that expressions of sympathy take the form of donations to the Countryside Hospice of Pierre or to the South Dakota Law School Foundation.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, almost 4 years ago I commenced these daily reports to the Senate to make a matter of record the exact Federal debt as of the close of business the previous day.

As of the close of business Wednesday, December 6, the Federal debt stood at exactly $4,988,640,469,699.34. On a per capita basis, every man, woman, and child in America owes $18,936.97 as his or her share of the Federal debt.

FLAG PROTECTION CONSTITUTIONAL AMENDMENT

Mr. SHELBY. Mr. President, I strongly support Senate Joint Resolution 31, which amends the Constitution to protect the flag of the United States from those who would desecrate it.

The American flag is a national symbol of the values this country was founded on. Many Americans have fought and died to defend these values and this country. It is an insult to these patriots, their relatives, and all other citizens who hold this country dear, to burn or desecrate the symbol of our Nation and our freedom.

I certainly support the right of all citizens to freedom of speech, but that right has never been absolute in our country. That is why there are laws against libel, slander, perjury, and obscenity. Similarly, our freedom of political expression is also limited. No one can legally deface the Supreme Court building or the Washington Monument, no matter how much he or she might wish to protest a particular government policy or law. The American flag, deserves special protection under the Constitution. It simply is not necessary to commit an act of violence against this flag to register protest against the Government. Passage of Senate Joint Resolution 31 will help ensure our national symbol receives the respect and protection it deserves.

Again, Mr. President, I offer my strong support for Senate Joint Resolution 31 and I urge my colleagues to support it as well.

REV. RICHARD C. HALVERSON

Mr. INOUYE. Mr. President, our former Senate Chaplin, the Reverend Dr. Richard Halverson, will be sorely missed, especially by those of us who had the great privilege of knowing him and benefiting from his special ministry.

His daily prayers and his words of greeting, whenever we met, were most comforting. History should record that as a result of his guidance, many unfortunate adversarial crises were successfully averted in the Senate. I believe he succeeded to helping maintain the Senate on a even keel.

We will miss him. I will miss him.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 2076.

The clerk will report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2076) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 1, 1995.)

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, it is my pleasure to proceed today with the conference report on the Commerce-State-Justice appropriations.

This legislation comes forward after a considerable amount of activity and, obviously, some ups and downs on the road to passage. It is, however, I believe, an excellent piece of legislation in light of the hand which has been dealt. Clearly, in an attempt to balance this budget, we have had to make some significant reductions in this account overall in order to meet our goal of a balanced budget within 7 years. The numbers which were assigned to us by the Budget Committee and then allocated to us by the Appropriations Committee put us to the test in the area of trying to reach this goal. But I believe we have reached it in a very positive and responsible way.

The essential thrust of this bill is to make sure that we adequately fund the activities of our criminal justice system and to make sure that we have

adequate moneys and make available to the States adequate funds to undertake an aggressive posture relative to trying to control the spread of violence and crime in our Nation.

As a result, we have committed a significant increase in dollars to the Department of Justice, approximately a 19.2-percent increase over the 1995 level. That increase in funding in the Department of Justice has come in the context of an overall reduction in funding for the bill generally of approximately $756 million.

Thus, in order to accomplish that, we obviously had to take some funds from some of the other agencies. We have significantly reduced the funding, for example, in the area of the Department of Commerce and in the area of the State Department. In making those decisions to reduce funds in those two areas, I believe we have done it in a very constructive way. We have in the State Department, for example, fully funded, to the best of our ability anyway, the activities of the operations of the State Department. We made sure that the salary cap accounts and the construction accounts and the day-to-day functions of the State Department are funded in a manner which they feel they can accept.

We have not, on the other hand, made a major commitment to the U.N. funding. We have funded the international organizations efforts and peacekeeping efforts, but we have kept the funding levels at a very low, or at least conservative, number, because we feel that is an appropriate decision. From my standpoint, I would rather be fighting crime in the United States and spending money on that than necessarily funding international organizations and peacekeeping at the United Nations.

In the area of the Commerce Department, we have also made some very difficult decisions, but in the process, I think they are constructive decisions. We have, for example, funded very aggressively NOAA, which does very strong, effective research in the area of protecting the oceans, which are critical assets of not only our Nation but the world. At the same time we have, however, cut the overall funding for the Department of Commerce by approximately 14 percent below what it was funded at last year. So we have gone 14 percent below a freeze for the Department of Commerce. In order to accomplish that, we have had to reduce funding in a number of accounts, obviously, within the Department of Commerce. But I think the decisions for those reductions have been thoughtful and appropriate.

Again, with the Small Business Administration, we have reduced the funding of the Small Business Administration by a considerable amount. But I believe we have given them still the capacity to go forward and participate in the process of funding initiatives to assist in the creation of jobs effectively.

So, overall, this is a bill which accomplishes our major goals, the first goal being to live up to our obligations to balance the budget and, therefore, make the difficult decisions which require reducing of funding and, in the area of the Department of Commerce, move toward basically its elimination. At the same time that we are moving toward a balanced budget, we have made a very strong and aggressive commitment to the Department of Justice and to crime fighting.

On that specific area, I think it is important to note that one of the issues of the debate is the manner in which we pursue these crime-fighting initiatives. We have proposed in this bill that a large amount of the violent crime trust fund will be sent back to the States in the form of a block grant which will emphasize and encourage the use of those funds for the addition of police officers on the streets but will not require that those funds be used for the addition of police officers on the streets.

This is a departure from what the administration position was or what they desired. The administration, of course, has taken great pride in its proposal which created cops on the beat and their theory, and we respect that. But we happen to feel that a much more logical way to approach this is to say to the local policing authority to get what they need. Do you need police officers on the street, or do you need the ability to communicate with your police officers on the beat, or do you need the ability to make sure that your police officers on the beat have adequate equipment in order to defend themselves?

We think it is much more appropriate to leave the decision as to whether or not the funds should be used for the creation of additional police on the street or whether it should be used in order to make the police who are on the street more effective in their job up to the local law enforcement agencies who are on the front lines and who have a much higher level of awareness of what is needed.

We also felt that the President's proposal had some fundamental flaws. The basic one was that the way it was structured most of the communities which would have added police officers would find that at the end of 4 years they would have to have picked up the whole cost of that police officer's salary. We think that in the end, rather than encouraging more police officers on the street, it would end up with approximately the same number of police officers on the street and that the number that has been thrown out by the administration is an extreme exaggeration of the numbers of new officers who might actually end up on the street, the number the administration talks about being somewhere around 100,000, when in actuality the number they proposed would have been somewhere in the vicinity of 20,000 during the periods the funds were available and, after the funds were terminated, in our opinion, would have been less.

In addition, we feel strongly in structuring the use of the violent crime trust fund significant dollars should be put into one-time items so that we are not creating programmatic events which we become responsible for at the end of the violent crime trust fund's period of existence, and thus we have encouraged things like one-time items that would encourage prison construction and activities such as that where we think we can help out the States as they go forward with their attempts to improve their criminal justice systems but not end up signing on to a program where we become liable for the States' responsibilities as far as the eye can see.

In addition, we have strongly supported, for example, some of the initiatives which have traditionally been built up under the criminal justice system and which we think are important such as the Violence Against Women Act which receives a sixfold increase over the 1995 funding level and which we think is a very appropriate initiative.

This is a quick outline. As we move forward this afternoon in discussing this bill further, we will get into more specifics, but at this time I would like to yield to my ranking member and colleague, whose knowledge and history of this legislation far exceeds anything I will ever obtain, and whose support and thoughtful advice and guidance I greatly appreciated during the process of putting this bill together, for whom I always had a great deal of respect, having gotten to know him when he was in New Hampshire on occasion a few years ago, but that respect has only grown exponentially as a result of my having had a chance to work with him in this committee.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I will yield to my colleague first I think for his unanimous-consent request.

Has the unanimous-consent request already been made?

The PRESIDING OFFICER. I do not believe so.

Mr. GREGG. Is the President aware of the unanimous consent relative to time limitations?

Mr. HOLLINGS. I believe it is 2 hours to the distinguished Senator from New Hampshire, 2 hours for this Senator on this side, 2 hours for the distinguished Senator from Delaware [Mr. BIDEN], and 20 minutes for the distinguished Senator from Arkansas [Mr. BUMPERS].

The PRESIDING OFFICER. It was apparently agreed to earlier. We are operating under that agreement.

Mr. GREGG. In that case I reserve the remainder of my time.

Mr. HOLLINGS. Let me thank the distinguished Senator from New Hampshire.

Mr. President, right to the point, the distinguished Senator from New Hampshire is not just a quick study but a

quick excellent study. A year ago, perhaps a little more, he was not on the subcommittee involved in all of these hearings. The bill presently presented by the distinguished Senator and conference report was not worked upon by him until it got into conference, and yet within conference—I emphasized the quick study—the Senator from New Hampshire approached it in a brilliant and thorough fashion—I might add, in an almost Mansfield-like fashion. I remember the distinguished majority leader, Senator Mansfield. When you asked him a question, he said, ''Yup'' and ''Nope.'' When I asked for things to try to get in this bill, the distinguished Senator from New Hampshire said, ''Nope.'' I learned that this outstanding Yankee is of a singular mind, and he knows how to make a decision, which is unusual in Washington.

I really respect and admire the way he has gone about this in a very, very thorough fashion. I emphasize that because I am not in a position on final vote to support the measure for various misgivings. I made that clear. But in making that clear, I wish to make it equally clear that we have been in a sort of cooperative manner trying to reconcile differences. That is the Government itself, the art of compromise. And realistically, there are many things in the bill, in the conference report that the distinguished chairman, Senator GREGG, perhaps would not have included or some things that he wished had been included. That is the same with this particular Senator. We have the House side to satisfy as well as the Senate side and we have worked diligently, at least the distinguished chairman has worked diligently with staffs on both sides and with this particular Senator, and I am grateful for his leadership.

Mr. President, the conference agreement before us provides $27.3 billion for programs and agencies funded in the Commerce, Justice, State, and the judiciary appropriations bill. Of this amount, almost $4 billion is for appropriations from the violent crime reduction trust fund. For regular discretionary appropriations this agreement provides $22.656 billion. This amount is $3.753 billion below the President's budget request, and $759 million below the level available in fiscal year 1995. I would note, however, that it represents an increase of $212 million above the level in the Senate-passed bill.

Before discussing the conference report, I would like to note that this bill is being managed by our new subcommittee chairman, Senator JUDD GREGG of New Hampshire. He took over this subcommittee in October following Senate passage of H.R. 2076. So he was tasked with shepherding a bill through conference that he did not draft. I will tell you he is a quick study and he has mastered this bill as quickly as anyone I have ever seen. And, I think it is fair to say that this is the most diverse and most complicated of the 13 appropriations bills. He has impressed everyone associated with the bill and has done an outstanding job.

Mr. President, when I signed this conference report I wrote ''with reservations'' under my name. And, I will discuss these reservations, these problems I have with this agreement shortly. But, I would like to first make a few comments about what I do support in this conference report.

LAW ENFORCEMENT

First, it continues to bolster our law enforcement agencies and the Federal Judiciary. Justice Department programs are significantly increased. Here are some examples:

U.S. attorneys are provided $926 million, an increase of $73 million over fiscal year 1995. That's an additional 450 U.S. attorney positions.

The Federal Bureau of Prisons receives $2.9 billion, an increase of $306 million over this year. This funding supports construction of new Federal prisons and additional operating funds to open prisons that are coming on line. It provides funding to deal with quelling the unrest that has recently occurred in our Federal prisons.

The Immigration and Naturalization Service is provided $2.557 billion, an increase of $487 million above the current year. And, within this account to ensure that funds go to where the Congress intends, we have earmarked appropriations that support the Border Patrol.

Finally, Judge Freeh and the FBI are provided $2.505 billion, an increase of $224 million. The conferees have focused our efforts on rebuilding the FBI's infrastructure. So included are: funds to get the NCIC 2000 crime data base up and operating; $30 million for renovations to the FBI training academy at Quantico, VA; and $57 million for the first phase of a new FBI forensic facility to be located at Fort Belvoir, VA. We all saw the importance of DNA evidence and the importance of validating such evidence beyond any doubt during the recent Simpson-Goldman murder trial. The FBI laboratory needs to be modernized and enhanced so Federal prosecutors and FBI evidence are not successfully challenged as was the case in the O.J. trial.

Violence against women grants are funded at $175 million, the President's request. This is $149 million above this year and $50 million above the House bill.

For agencies other than Justice and the judiciary, it is really a question of bad news-good news. The bad news is that almost no other agency received appropriations above the current fiscal year. Getting up to a freeze was a major accomplishment. But the good news is that most other agencies have survived at a funding level that enables them to continue to operate, albeit at a reduced level. Take the National Oceanic and Atmospheric Administration, or NOAA, probably the most popular agency in this bill. NOAA is our Nation's principal environmental sciences agency. It is the agency that procures and operates our weather satellites and it is for the oceans what NASA is to space. In past years our CJS bill increase NOAA just as we have increased Justice.

But in this agreement, NOAA is provided $1.853 billion—$59 million below a freeze, and $244 million less than the President's budget request. The good news is that it could have been worse. Thanks to efforts by Members like our distinguished chairman, Senator HATFIELD, this agreement provides NOAA with a level that is $79 million over what the House crowd would have provided and only $13 million less than the Senate-passed bill.

So, like NOAA, many of these other agencies are not doing well, but they are surviving. My colleagues need to be put on notice now, however, that there are going to be reductions in force, office closures, and contract terminations. SBA is going to close offices and there are going to be significant reductions in force in Commerce and in independent agencies. You cannot provide these levels of funding without such impacts.

Mr. President, it is my hope that we can debate this bill quickly and get it down to the White House. President Clinton has stated that he will veto it and I must concur with his position. There are several areas that are unacceptable to both the President and most Members on this side of the aisle. I will briefly mention several.

COPS ON THE BEAT

First, this bill terminates the Cops on the Beat Program and the Drug Court Program. It seeks to rewrite the 1994 crime bill and provide funds instead to Governors and mayors for a block grant program. This isn't a money issue; the funds are available in a separate account under the violent crime trust fund. So, what this is about is politics, and I might add pretty dumb politics at that.

I will put a more complete statement regarding the COPS Program in the RECORD. But, let me summarize my position.

First, the COPS Program is focused and well managed. In just 2 years it has gotten 26 thousand additional police out on the streets across America.

Second, the COPS Program has a component that is targeted to small, rural communities. It deals with sheriffs and small town police chiefs directly. Across South Carolina you can survey the most conservative, Republican law enforcement officials and they will tell you that the Cops on the Beat Program is the best thing the Federal Government has ever done.

Third, there is no education in the second kick of a mule. Sometimes I would appreciate it if Speaker NEWT GINGRICH and the House crowd realized that experience and institutional memory are not necessarily bad. We already had a local law enforcement block grant in the Federal Government. It was called the Law Enforcement Assistance Administration, or LEAA. I

was here when we created it and when we had to kill it because of waste. Mayors were buying tanks and corporate jets. Jimmy Carter came up to Washington after seeing LEAA waste at the State level and said ''kill this turkey.'' So for over $8 billion we got nothing to show for LEAA except we let Federal funds be wasted, while for $1.3 billion we already have gotten 26,000 police through COPS.

Fourth, Bill Clinton is right. The war on crime is being fought principally at the local level and police are our foot soldiers, our marines, sailors, and airmen. I've heard all this mumbo jumbo about local flexibility. The last time I checked, 10 out of 10 people who call the police for help are calling for a police officer. There just isn't a better use of this crime bill trust fund than to hire more police officers. I don't want to see this money raided by Governors and local elected officials, I want it to go directly to sheriffs and police chiefs as is the case now.

Support for police always has been a solid, bipartisan value. I would urge my Republican colleagues not to become antipolice simply because President Clinton supports this program. you attacked the President in March 1993 because he proposed more money for community development block grants, and for days we listened to you list every wasteful project that could potentially be funded through block grants because of local flexibility. I urge you to get your staff to pull out the CONGRESSIONAL RECORD and to reread your own words. And I would urge you reread your statements regarding the crime bill. The distinguished chairman of the Judiciary Committee, among others, talked about the importance of getting 100,000 more cops.

The President will veto over the COPS Program alone. I support him. It is my hope that this program and the Drug Court Program will be restored during round two of this bill after the veto. I know Senator BIDEN will have more to say about this issue.

COMMERCE PROGRAMS

Second, this conference agreement terminates the Commerce Department's Advanced Technology Program [ATP]. It does not even provide funds for the Federal Government to make good on its prior year commitments to industry under ATP cooperative agreements. When we completed the fiscal year 1995 appropriations bill, we provided $431 million for the ATP. In this bill there is no funding.

The ATP provides funds for cooperative agreements with industry to share the risk, on a 50-50 share basis for high-risk, precompetitive technologies that have potential for significant economic growth. What we are doing in this program is providing the necessary R&D that enables entrepreneurs and small companies to be able to take an R&D project from concept to proof of principle. It is a fully competitive program and every award is made by peer review panels. Neither the President, the Secretary of Commerce, nor any Senator has the ability to influence which companies receive ATP awards. This program is run fully on the basis of merit.

Now, just meeting prior year commitments—that is to fund the Federal share of awards made before this year, requires appropriations totaling $290 million. Again, I'm afraid this aspect of the conference report is about politics and not substance. This is about the former Democratic Party Chairman David Wilhelm making a comment something to the effect that ''California is the end all and be all of politics and Ron Brown has the program.'' Yes, the fact is that many ATP awards do go to California companies, and Massachusetts companies and Pennsylvania companies. It shouldn't take a NIST PhD to realize that ATP awards are going to go predominantly to parts of the country that have concentrations of high-technology industry.

This is exactly the type of program we should be funding if we are going to compete effectively in the trade war, now that the cold war is over. Our Republican colleagues have shown that they do support many Federal technology programs, including NASA aeronautics, high-performance computing, and cooperative research and development agreements. They recognize that developing new precompetitive technologies is important to the long-term future of our country. This has been the case in other appropriations bills. So why oppose what is clearly one of the best-run Federal technology programs, one that is never porked, and one that already is leading to some major technical breakthroughs? Republican support for technology programs generally makes their decision regarding the ATP all the more regrettable and mistaken.

The President realizes the importance of ATP and that is exactly why the absence of ATP funding is another reason for him to veto this conference report. Even if my Republican colleagues will not agree to fund new ATP grants, it would only seem fair that they fulfill past years commitments made by the Federal Government.

Third, though this is not a veto issue, I strongly disagree with the conferees decision to terminate the U.S. Travel and Tourism Administration [USTTA]. I argued against the House position and for the Senate position which reflected the amendment that Senators BRYAN and BURNS had made to the bill in September. Unfortunately, my colleagues in the conference did not see the issue as I do.

USTTA costs only $17 million a year and provides a lot of bang for the buck. Almost every other country maintains a tourism promotion program, and so should we. I created USTTA. It is simply too inefficient having every State in this country running its own tourism promotion effort overseas. And, in Greg Farmer, we have the most effective director of USTTA that we have ever had.

Tourism is big business and should not be given short shrift. It employs 6 million Americans and is the leading employer in 13 States. South Carolina is one of those States and we have almost 200,000 people employed in some aspect of the industry. This year we expect over 700,000 international visitors in my State.

I think this conference has made a big mistake.

LEGAL SERVICES

With respect to Legal Services, the conference agreement provides $278 million instead of $340 million as proposed by the Senate. I think Senator PETE DOMENICI deserves a lot of credit for having led the fight to save the Legal Services Corporation, when Senator GRAMM proposed terminating the Corporation. And, Senator DOMENICI was in charge of our negotiations with the House. I think he would be the first to say that when this bill goes to round two, Legal Services is an area we need to get more funding for.

Finally, I think it is obvious that the amounts provided for international organizations and U.N. peacekeeping are far below the level the President considers adequate. This is not a heartburn area for me, for years I have criticized U.N. peacekeeping as ineffective. It often seems in areas like Somalia and Bosnia, that United States forces are needed to rescue U.N. peacekeepers. The program just doesn't make sense.

But, I think it is clear that international organizations and peacekeeping will need higher funding levels if the President is going to ultimately sign this bill.

In summary, I want to acknowledge the hard work of Chairman GREGG and Mr. ROGERS and their staffs. I especially want to recognize the contributions of David Taylor, Scott Corwin, and Vas Alexopoulos, of the majority staff.

This represents the first CJS conference reports that I cannot support. I hope that the chairman will realize that this is because of decisions that were made by his leadership. Principally the termination of the Cops on the Beat Program and the ATP. I simply cannot support those decisions.

It is my hope that this bill will be sent to the President expeditiously. I fully expect that it will be vetoed. I believe that this will be only the second time in history that a CJS appropriations bill has been vetoed.

Then hopefully we could get on with round two and providing a bill that is acceptable to the President and one that can be enacted into law.

Mr. President, let me go to the Commerce Department itself because over on the House side, a colloquy was had yesterday, I guess, upon the enactment of this bill where statements were made with respect to abolishing the Department of Commerce.

There is a reference within the conference report itself on page 30, section 206—where the language could be envisioned as preparatory to abolishing the

Department—starting off with ''should legislation be enacted.'' That was a compromise on the word ''should,'' because I did not want anything anticipatory. When first presented, it was ''when legislation is enacted.''

There has been no authorization for the dismantlement or abolition of the department itself. Yes, three times on the House floor they have voted for just exactly that—to the shock of this particular Senator—for the simple reason that if you go to the Constitution itself, article I, section 8, in enumerating the powers and authority and responsibilities of the national Congress, article I, section 8, first says that you can levy and collect taxes.

The second designated authority and responsibility would be to borrow money. Heavens above, we know how to do that around here. We are going to borrow $348 billion to keep the Government going while we are talking about balanced budgets. That is sheerly out of the whole cloth.

The media have to be fast asleep on this particular point. I think it was Thomas Jefferson who said that as between a free Government and a free press, he would choose the latter. That is understandable because, yes, you can have a free Government that will not remain free long except with a free press. The free press owes the people, the body politic, the duty to expose nonsense, particularly the nonsense that is going on here of a balanced budget. There is no plan in the headline in the morning's paper to balance anybody's, particularly this Government's, budget.

If you look at the innards of the plan, you will find out that rather than cutting spending, spending increases this year; and that the measure is $53 billion over last year. Starting off with the deficit, you are going with increased spending each year and increased spending over the revenues each year, which adds $1.8 trillion to the national debt. And yet the media, press and otherwise, fall into the lethargy of parroting what the pollster politicians parrot—that if you say it again and again and again, buzzwords, buzz headlines, ''balance,'' ''balance,'' that it will be balanced. But it is far from being balanced, Mr. President. And so it is that, yes, duty No. 2 is to borrow money. And we respond generously.

Duty No. 3 in the Constitution is to regulate commerce. I point this out because you will not find that word ''agriculture'' or ''housing'' or ''education'' or ''energy'' in the U.S. Constitution. When the contract crowd came to town, they were going to get rid of all of them, the Department of Housing, the Department of Energy, the Department of Education, right on through. End the Department of Commerce. The one on the griddle now is the Department of Commerce. Why? Because the selfish business leadership wants deregulation and more money, capital gains.

I have listened to their leadership again and again saying, well, under the Congress we are concentrating or, namely, we do not want to bother the leadership unless we can get capital gains tax cuts.

We do not have any capital gains to cut, unless we can get deregulation. So we will not bother about the Department of Commerce because we do not think any Government in its right mind is going to do away with the front line of the struggle in the global competition for economic strength and influence. That is what it has turned into with the fall of the wall.

We have moved where the world could care less about the 7th Fleet and the atom bomb. Money talks. Economic power, influences. We are finding that out in our foreign policy. And the Department is charged, if you please, along with the State Department, to be more or less the front line of defense now, rather than the Pentagon, to get into the matter of dumping cases, the International Trade Administration, the Bureau of Export Administration.

Everyone is talking about exports, exports. You can go right on down the list of these important, particular measures in that global competition of patent and trademark. That is a matter of issue, all of these trade measures, and the argument of using the OMB and CBO, the gross domestic product, that Bureau of Economic Analysis, the Census of Manufacturers. All this work is being done in a very casual fashion. But they say get rid of it all.

We could go right on down with the Census Bureau, the National Institutes of Standards and Technology, the Economic Development Administration, the Minority Business Development Agency, the U.S. Tourism and Travel Administration—all of that is under a very, very aggressive and productive Secretary of Commerce.

I have been through some that have not been aggressive except to collect money. Invariably the Secretary of Commerce has been appointed from time to time to dun the business leadership for the money to run for reelection. On the contrary, this particular Secretary has been traveling and working and moving and shaking, creating jobs, a historic first in my 29 years on the Commerce Committee.

I think that it was the former chairman of the Democratic Party who was responding to the former Senator from Wyoming, Senator Wallop when he pointed out that Secretary of Commerce Brown had been out in California. In his response, he said California was ''the end all, be all, of Presidential politics'' and that the Secretary of Commerce, Ron Brown, was going to run it. And that is how we ran right straight into a wall with respect to everything about that department. And that is why it persists today in this particular measure as perhaps to be abolished. A horrendous thought. But politics prevails around this town. And that is why it is there.

That makes me come right to the point of emphasizing the significance of the Department. I could do it by way of comparison. You can go right under this particular bill and you will find a measure, Mr. President, that never existed until the year before last, just a couple years here in over the 200-some-year history of this great Nation of ours. But we have had a Department of Commerce, or commercial effort, let us say—Teddy Roosevelt started it at the turn of the century. But we have had that designated responsibility and adhering and responding thereto. But here now we have what we call the Violent Crime Reduction Trust Fund. That is $3,956,000,000. The Department of Commerce is $3,444,000,000. If you abolish the entire Department on all these endeavors, you have not saved what this Congress just year before last started out anew.

That is why everybody talks about ''cut spending, cut spending, cut spending.'' But they are increasing it. And we cannot get it through the public mind. They run on ''cutting spending,'' but when they get here they continue to spend more, and more than the whole Department, an endeavor that has been in since the Constitution.

But let me go right to NOAA, because I was at an occasion here this past weekend, and a former Secretary—I said, ''I understand that you said we ought to abolish the Department of Commerce.'' He said, ''Well, if we could blow up NOAA and get rid of it, that would do the job.'' The poor gentleman does not understand at all the institution of the National Oceanic and Atmospheric Administration. And since I was participatory in its institution, let me refer immediately to the Stratton Commission report, ''Our Nation and the Sea.'' It has several volumes.

The former Secretary stated that he had talked to an oil friend of his, and the oil friend said that we could easily contract out for all those things being done by NOAA. The truth of the matter is, the oil industry was very, very much a participant. James A. Crutchfield was a professor of economics. We had Jacob Blaustein of the Standard Oil Co., who served on this. We had not only in the Stratton Commission the deans of schools of oceanography, but we had the industry itself, General Electric. We had the Environmental Science Services Administration. We had the Under Secretary of the Navy.

It was a most auspicious group for a 2-year study with the Stratton Commission report that said what we should do is organize the Sea Grant Program, the Bureau of the Fisheries and bring all of these particular endeavors—the Weather Service and, more particularly, the Environmental Science Services Administration—bring those in under one particular entity because 70 percent of the Earth's

surface is in the oceans. That is the beginning of weather, beginning of the environment, beginning of all the scientific studies, and what have you.

While everybody was enthused about the space effort, more importantly we should be orchestrating, organizing and emphasizing the oceans effort. We have been doing that for some 20 years before any NOAA in what we called the Environmental Science Services Administration in Commerce, the Uniform Coast and Geodetic Oceans Core at that particular time.

All that was blended into a very good, aggressive endeavor that sort of withered on the vine. I saw it happen because a Senator from an inland State that never saw the ocean took over the Commerce Committee. He did away with the Subcommittee of Oceans and Atmosphere that we had within the committee. And otherwise, at least financially, we have gone downhill.

The Coastal Zone Management Act took 3 years of hearings and has really responded to the Stratton Commission report, such that by the year 2000, we are going to have 85 percent of all Americans living within 50 miles of the oceans or the coast of the Great Lakes.

And we had to plan with respect to where the industry was going, where the recreational systems were going, where the power systems were going, where the fisheries were going, where the urban sprawl was going, and everything else, while at that particular time they had a gentleman, John Ehrlichman on President Nixon's staff, who was looking for a land use measure and opposing, incidentally, this particular institution of NOAA because he wanted his land use.

The Attorney General and President Nixon got together with Dr. Stratton, and by reorganization plan No. 4 in 1970, put forth a very responsive and responsible entity in the National Oceanic and Atmospheric Administration. We need a restudy, a return, so to speak, of the Stratton committee report and many of us in the ocean policy study believe that should be done.

But in restrictive budgets right now, we have sort of held back. You do not blow up the endeavors of the National Oceanic and Atmospheric Administration and thereby solve the problems, as they see them, of the Department of Commerce. You do not disassemble and assign Census over here and some other Bureau officials back over here and break it up because somebody is trying to get rid of the Government. And if we cannot sell buildings—and I do not know the building in the contract they were supposed to sell—they say we have to get rid of Departments. We could not get rid of Education, we could not get rid of Housing but we have to get rid of Commerce, they say.

On the Senate side, they did not even want to debate it. They put it off at the time because the so-called authorization was coming up. This Senator is ready to debate it at greater length when that measure arises, but we do not treat casually a fundamental endeavor in the U.S. Government at this particular time.

I was going to emphasize some of the things with respect to Export Administration and the Census Bureau. There is an ongoing effort to abolish the Economic Development Administration. That has been recommended for about 15 years, and we have to withstand the onslaught there, because it is a sort of ''but if'' endeavor that brings about development at the local level that economically has proven its worth. Republicans and Democrats, both sides of the aisle, oppose that.

I just want to say a word about the U.S. Travel and Tourism Administration.

Before I get off of the Economic Development Administration, incidentally, we had the Defense Conversion Act which assigned some $90 million to the Economic Development Administration. I guess we will get into the Economic Development Administration's responsibility relative to defense conversion when we talk about the Advanced Technology Program and when we talk about other measures.

Let me say a word about the U.S. Travel and Tourism Administration. I never will forget the campaign of 1960 when President Kennedy was nominated, and I happened to be, at that time, in conversation with the President-designate. He said, ''I'm going to appoint your friend, Luther Hodges, as part of the Cabinet.''

I said, ''Mr. President, look, Luther is not a politician politician, he is a businessman politician.'' He had been president of Marshall Fields in the textile division, the New York City Rotary Club and otherwise. He had come down to South Carolina, led the South in economic and industrial development, changing over from an agricultural economy. And he said, ''Well, good, I will put him in as Secretary of Commerce.''

And thereafter Secretary of Commerce Hodges came and said, ''Well, you got me this thing, what can I do?''

I said, ''Well, tourism is a fledgling industry now, but it is beginning and going and growing and we really need national coordination.'' There is not any question that the States themselves—some of the bigger interests of what I am speaking of, Senators BRYAN and REID from Nevada, even Senator PRESSLER from South Dakota, the chairman of our committee. When they have a trade show in downtown Cairo, there is no reason for 50 States to show them how to cook an American barbecue. They all try. We wanted to coordinate that and, from time to time, pick different ones and have a nationally coordinated effort and direction.

So it was and investment of $17 million. Secretary Hodges instituted the U.S. Travel and Tourism Administration. It now is worth $7 billion to the economy, is the largest industry in my State and in many, many other States, and ranks right at the top of all endeavors in the United States. But to get symbols or trophies or get rid of something, they just pell-mell said, ''Let's get rid of the U.S. Travel and Tourism Administration.'' It is a bad, bad mistake to try.

Otherwise, the Advanced Technology Program is easily explained with respect to our competition in the global economy. Everyone should read ''Blindside'' by Eamonn Fingleton on Japan and how it is operated by the Ministry of Finance and all industry has the Government directing its research. We give a minimal kind of research and development tax writeoff. It should be made permanent and greater, but, in any event, we need a national effort to stay on top of the U.S. technological lead.

We do not prevail in national defense by manpower. The Chinese, the Soviets have always had more men than we have had, but we have always maintained as a superpower by the superiority of our technology. The same is going to be true in this, I just call it bluntly, trade war, economic struggle for development the world round.

And so we—I say we, Senator Danforth and myself—really studied it to make sure it was not pork. It was not included in an appropriations bill where you cannot find it. On the contrary, the industry itself must come with an application and 50 percent of the money in hand. Thereupon, it is reviewed by the National Academy of Engineering and, on peer review, the award is made, not by the Secretary of Commerce politically or the White House over a telephone call by the President, but on a competitive basis, on a peer-review basis and, therefore, it has maintained its integrity.

I have really stonewalled efforts on the House side as chairman and now as ranking member of this particular subcommittee that we were not going to write in any of those particular programs in our bills. We were not going to have pork, and it was done extremely well.

There have been some 276 awards made. I remember when the textile industry of my own State came and asked for support on a research endeavor, and I want to make this record so they will all look at it closely. They came before the National Academy of Engineering and could not qualify for the Advanced Technology Program, so they went over to the Department of Energy, got money and they got a $350 million research endeavor at Livermore Laboratory out in California under the Department of Energy where it could not qualify in the Department of Commerce. I know that intimately because of the genesis of the program and my position on the particular committee.

So we have been very cautious. When you get rid of the Advanced Technology Program, which I think would be one reason the White House has indicated a veto, everyone should understand why. Very minimal effort, but

very, very important effort being made there.

Let me move, Mr. President, if you please, to the Cops on the Beat because I have not spoken at length, and the distinguished chairman of the Judiciary Committee, who has led the program itself, the institution of it, the Senator from Delaware, Senator BIDEN, will be. He has a couple of hours reserved. Members of his committee will be speaking on that point. But, yes, I have an experience with respect to block grants.

First, block grants are not authorized. Senator GREGG and I, when we met, we did not have that much of a stonewalling on different programs because they were not authorized, but we have experienced it in other conferences. The House Members, adhering to their authorizing committees, say we agree with you, we want that done, it cannot be in the conference report. It is not authorized. I have heard that for years on end—for 18 years, as either ranking member or chairman of this particular subcommittee on appropriations. This is not authorized. When it came up, the discussion on the Senate side for authorization, they passed that over. They did not want to debate that one. It is not authorized, not on the Judiciary Committee, and everything else. So here, trying to write in, you could raise a point of order under the rules, but we are not trying to waste time.

We ought to be home for Christmas right now. Something is wrong with this crowd. They do not understand life itself. They want to start meetings at 6 o'clock. They must not have a home to go to. At 6 o'clock, everybody else is home trying to get supper and go to bed and see the children, or otherwise. But not this group. They think, for some political reason, we ought to stay around and show that we are working hard late at night. But we are not paying the bills or getting anything done. They have not authorized block grants with respect to this one.

Now, they did under President Nixon. They called it the Law Enforcement Assistance Administration, or something, LEAA. We gave up the block grants. And I will never forget when President Carter came to town. He said, ''Kill this turkey.'' It was an embarrassment. They were putting tanks on the courthouse lawn in Hampton, VA. I do not know who was going to attack the courthouse. They were buying airplanes to fly to New York to buy spring clothes for the Governor's wife, and they were giving out consultants. It was a good little political pork pot, where you could get anybody as a consultant. There were consultants all over everything. We spent $8 billion and we got nothing. We have done this.

There is no education in the second kick of a mule. There is no use trying to go through this one because somebody put it in the contract. The only reason it is in the contract is they are trying to get on top of the message that ''We Republicans are more for crime control than Democrats are.'' The Democrats have the policemen on the beat program. There is nothing wrong with that, but ''we want to put in our crime about the contract.''

Nonsense. But that is what we have to go through with—it is not authorized—and try to change the entire program around, where again, the local law enforcement has to come with 25 percent of the money. And after 3 years, they are going to have to take it over. We have 26,000 cops on the beat.

I have been in law enforcement. For 4 years, I was the chief law enforcement officer in my State. I know it intimately. I can tell you that this is a wonderful endeavor that is working, nonpartisan-like. All these law enforcement officers and entities all endorse these block grants. But it is like delivering lettuce by way of a rabbit. By the time the police chief sees where his money is, yes, he might buy an extra radio, or get a consultant, or he might never get talked to. He will never see an additional officer on the beat. So we have done that. Let us not waste time and money on cops on the beat.

There is another endeavor I should emphasize in the opening statement, and that is the Legal Services Administration, and that I have had experience there. There have been those all the way back when it was first instituted, back years ago, when Legal Services—I will never forget I had to work with Senator Javits of New York on this one, and we had to enumerate the duties of domestic cases, landlord cases, employment cases, and otherwise, because we found that in going and sending money back to the Legal Services Corporation, they were hiring the demonstrators to come up here on the Capitol steps and call the Congress a bunch of bums on account of Vietnam. So we thought it was not quite smart to be financing our own opposition, and it certainly was not the intent; it was to get money in the hands of poor folks, who should get their day in court and could not because they did not have any money.

It was really started by the American Bar Association when our friend, Justice Lewis Powell, was then a practicing attorney and President of the American Bar. In one endeavor to try to get rid of it, we brought Justice Powell over, and they realized the authority and the thought and the responsibility of the endeavor that they more or less abandoned the idea of getting rid of Legal Services. But farmers do not like the poor migrant worker—who may be cheated out of his money and who has to move on and cannot take care of his family and everything else—getting a lawyer. So the farm crowd—I know them, I have them in my State—do not like that migrant worker. They can cheat him, run him off, do not give him housing, or anything else. He does not know anybody in your community or have any contacts there. Get rid of him. They do not like it, so get rid of Legal Services. It is the same thing in these big cities, with landlord-tenant problems. They never fix the pipes that freeze over, and they are trying to get water and everything else in there, and heat for the children. Throw them out on the street and, surely, do not give them a lawyer.

Come on. We know there is opposition to Legal Services. But, fortunately, on the Republican side we have the leadership of the former chairman of the subcommittee, PETE DOMENICI of New Mexico, and he led the fight. I am sorry we did not get enough money. The chairman of our subcommittee tried, and I tried, but we could not get any more. It is inadequate. We are looking at a veto on the second go-around. This is going to be a subject for concern and perhaps increase, hopefully, because it is a tried and true program. We put the language in. I agreed with the former chairman, the Senator from Texas, Senator GRAMM, that we should not use money to sue the State of New Hampshire.

I have watched these things every time you have these crowds that come around and want to grab the poor people's money and bring a mass action and go to the Supreme Court, and the lawyers sit around and eat it all up. They have enough money, those charitable legal defense funds, and everything else. Leave our Legal Services Corporation alone and do not sue the Governor or the legislature. That is for poor folks, not rich folks sitting around in Washington with their think tanks.

Senator GRAMM was correct, and I went along with him. I think that when we come on the second go-around, we are going to have to really beef up the Legal Services Corporation. There is a tremendous need now in our country, and we should not be cutting it back or trying to abolish it.

Finally, I will soon terminate and try to retain my time for others. Mr. President, we have the State Department that is the front line with that Commerce Department. With the fall of the wall, we ought to be extending democracy, freedom, and human rights to the world around with our Department of State. They finally are falling in line on a business basis.

You had the diplomats in years gone by where they were annoyed with American industry and business trying to get business in a foreign land. Now, under Secretary Christopher and under Secretary Brown, they are working in tandem, because they have to if we are going to survive. They are working in tandem, trying to open doors now by business leadership so they can compete.

We need these embassies around. They are trying to close down Edinburgh, Scotland. Bad mistake. They are trying to close down Florence, Italy. The educational institutes of this land—they have some 10,000 American students there. There are various

cases and visa matters and everything else coming back. Close it down and run it through Rome, you will spend more money, sell the property and lose it.

So we have tried our best, yes, to close those that are not needed, open up the new ones in the 14 Republics of the former Soviet Union, but more than anything else, strengthen our consular service and cut out all the Departments of Government, keeping their endeavors upon the Department of State.

Specifically, there is no reason—go down to Caracas, Venezuela; they want the FAA to have something go down there, and then the head of the FAA has a reason to go and travel to South America. The IRS would like to come in and they would like to have offices around in foreign lands, and then the hierarchy of IRS can get in a plane and they can travel around.

Now, we have the FBI, which I think is a mistake, because you have the CIA, and the FBI is going to be arresting CIA agents. You watch it. We have always tried to keep that division with respect to intelligence. With respect to law enforcement, do not ever put your law enforcement in another man's country. It is ineffective. It is a mistake. But they are now endeavoring to put FBI around there.

They ought to put them down on 14th Street in this city. We do not have enough law enforcement. That is why we have the Cops-on-the-Beat Program. We have enough crime in America, much less chasing it around in the various lands.

But they like to travel. When they do, the poor Ambassador is the landlord, and he looks around and he has more and more and more people assigned to him and half of his budget is already gone; there is a housekeeper in the embassy and he cannot get his work done.

Mr. President, I hope we can cut back on some of that that is going around. If we want to try and help the State Department, we ought to embellish their effort. We ought to acknowledge very genuinely, Senator GREGG, the chairman, Mr. ROGERS, and their staffs on the other side. It goes without saying Scott Gudes on my side, I could not operate without him, and we have David Taylor, Scott Corwin, Lula Edwards, and Vas Alexopolous on the majority staff. So we look forward to a very compatible working together on this particular measure.

It has 128 entities in it. You have the special Trade Representative, you have the Arms Control and Disarmament Agency. They could really spend the day talking about what we have done, how we cut back on the money. We have cut back; it is far less. This is $1.5 billion less than what the President of the United States asked for. We have been in step with the ''seam,'' so to speak, of the revolution with the cut in spending. The distinguished chairman and I both believe we should cut spending, but it should be done in the right places.

I could go right to the point of the International Trade Commission. Why have a jury find the fault of a dumping violation and then have a different jury find the actual sentence or injury? In fact, there are a bunch of sycophants that are fixes for ''yack-yack'' free trade. There is no such thing, but every time we find a dumping violation they can never find an injury. We can save $43 million getting rid of that crowd, let the same entity, namely, the International Trade Administration—be like the jury in a case that finds the guilt also decides the sentence. You do not waste time and have another bureaucracy reexamining.

There are many places that we can go along with the spirit of the revolution in the Contract, but this is not one of them, where you want to abolish the Department of Commerce.

I reserve the balance of my time.

Mr. GREGG. I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HOLLINGS. Mr. President, I ask unanimous consent a statement of administration policy on this particular bill be printed in the RECORD.

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

STATEMENT OF ADMINISTRATION POLICY

H.R. 2076—COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1996

(Sponsors: Livingston (R), Louisiana; Rogers (R), Kentucky; Hatfield (R), Oregon; Gregg (R) New Hampshire)

This Statement of Administration Policy provides the Administration's views on H.R. 2076, the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 1996, as approved by the Conference Committee. Your consideration of the Administration's views would be appreciated.

The Administration strongly opposes several aspects of the Conference Report. For the reasons discussed more fully below, the President would veto the bill if it were presented to him in its current form.

The bill would provide insufficient funds to support the important activities covered by this bill. It would undermine our ability to fight the war on crime and to support international organizations and peacekeeping activities; decimate technology programs that are critical to building a strong U.S. economy; and cripple our ability to provide legal services for disadvantaged individuals.

PROGRAMS TO FIGHT CRIME

The bill would eliminate the COPS program and, instead, fund a law enforcement block grant program that would allow spending on anything from street lights to public works projects. The American public has shown a clear desire for additional police to work hand-in-hand with communities to fight crime. The block grant approach would not guarantee a single new officer. COPS is a proven success and should be maintained as a separate discretionary program. The COPS program has reinvented Federal grant making, putting grant monies into the hands of local agencies on an expedited basis. A block grant program cannot accomplish what the current program has done.

The President would not sign any version of this appropriations bill that does not fund the COPS program in its authorized form.

Similarly, the bill fails to ensure funding for important crime prevention activities, most notably so-called ''drug courts,'' the Community Relations Service, and the President's Crime Prevention Council. In addition, there are reductions below the request for the President's immigration initiative. The Administration urges the Congress to support increased funding for these vital programs, as well as the continuation of the Associate Attorney General's Office.

The prison grants ''Truth in Sentencing'' provisions of the bill would disproportionately and unfairly benefit a small number of States, deprive some States of any funds, and harm many States—including some with very strong sentencing policies. In addition, the provisions would generate delay in the awards of much needed prison grant funds for all States.

TECHNOLOGY PROGRAMS OF THE DEPARTMENT OF COMMERCE

The Administration urges the Congress to support the technology programs of the Department of Commerce that work to expand our economy, help Americans compete in the global marketplace, and create high quality jobs. The conference level would eliminate funding for the Advanced Technology Program (ATP) and prohibit new awards, which is unacceptable to the Administration. ATP is a highly competitive, cost-shared program that fosters technology development, promotes industrial alliances, and creates jobs. Eliminating ATP funding would force wasteful cancellation of ongoing research projects before they are complete. The ATP program was created with bipartisan support, which it continues to deserve.

The bill also would sharply reduce funding for the National Information Infrastructure (NII) grants program. The NII program assists hospitals, schools, libraries, and local governments in procuring advanced communications equipment to provide better health care, education, and local government services. The conference level would eliminate funding for the GLOBE program, which promotes knowledge of science and the environment in our schools. The Administration is also concerned about reductions below the request for the Manufacturing Extension program.

The Administration is concerned with the funding levels provided for the Technology Administration to fulfill the U.S. Commitment for the U.S.-Israeli Science and Technology Commission and to maintain valuable technology analysis and advocacy work at a time of increasingly fierce global competition. The Administration seeks additional funding for economic and statistical analysis and for the Census Bureau. In addition, we are concerned about the level of funding for the Economic Development Administration Defense Conversion program.

LEGAL SERVICES CORPORATION

The Administration is greatly concerned with the conference funding level for the Legal Services Corporation (LSC), which would cripple the ability of the Corporation to serve people in need, and urges the Congress to restore funding for the Corporation.

The Administration does not support the excessive restrictions on LSC operations contained in language provisions in the Conference Report. The restrictions imposed on the representation of clients unduly limited their access to the justice system. An allocation of $9 million for management and administration is essential to permit Corporation management to meet its statutory responsibilities, which include for the first time the awarding of grants on a competitive basis.

INTERNATIONAL PROGRAMS

The Conference Report includes a 50-percent reduction to Contributions to International Peacekeeping Activities and a 24-percent reduction to Contributions to International Organizations, which fund the treaty-obligated U.S. share of activities of the United Nations, International Atomic Energy Agency, NATO, and others. These activities support important U.S. national security and foreign policy interests including, among others, the Middle East (including Israel's borders and Kuwait/Iraq), weapons nonproliferation and safeguards activities, sanctions against international renegade countries, promotion of an open international trading framework, control of diseases such as Ebola viruses, and promotion of human rights. These reductions would impair the ability of the U.S. to carry out and safeguard important U.S. interests around the world. Also, without restoration of funding for these accounts, the Administration would be severely hindered in the pursuit of much needed reforms at the organizations.

In addition, other international affairs programs of the Department of State, the Arms Control and Disarmament Agency, and the United States Information Agency, are reduced to levels that would hinder the execution of important national security and foreign policy activities. Finally, the Administration regrets the inclusion of extraneous language in the bill related to the presence of U.S. Government facilities in Vietnam.

OTHER ISSUES

The Administration objects to section 103, which would prohibit the use of funds in the act for performing abortions, with certain exceptions.

In addition to the issues discussed above, the Administration would like to work with the Congress to address the other concerns that were outlined in the conferees letter of November 6, 1995.

Clearly, this bill does not reflect the priorities of the President or the values of the American people. The Administration urges the Congress to send the President an appropriations bill for these important priorities that truly serves the American people.

Mr. GREGG. I yield 10 minutes to the Senator from North Carolina.

Mr. HELMS. I certainly appreciate being yielded to by the distinguished Senator from New Hampshire. I thank the Chair.

Actually, I came to the floor at this moment to pay my respects to Chairman GREGG, who is our distinguished colleague from New Hampshire, for his having brought the Commerce, Justice, State appropriations conference report to the floor. I know he enjoys working with our distinguished friend from South Carolina who has been here 29 years and who is still the junior Senator from North Carolina, but FRITZ HOLLINGS is a wonderful friend, as well.

Both Chairman GREGG and Chairman GRAMM, who recently inherited the CJS issues, have done outstanding work in consulting and actively cooperating with the authorizers of the Senate Foreign Relations Committee.

Now, Senator GREGG served on the Foreign Affairs Committee before accepting his current responsibilities on the Appropriations Committee. I have to say to him, we miss the distinguished Senator from New Hampshire on the Foreign Affairs Committee, but we are grateful, as a member of the Senate Appropriations, he remains a strong and steadfast advocate for the concern of the American people relating to foreign policy.

While the CJS conference report does not contain everything that I wanted, it is consistent with the thrust of S. 908, the State Department reauthorization bill. A great many of us have worked hard to craft the legislation to prepare the Department of State for the challenges of the future.

I confess, from time to time, Mr. President, I have been discouraged that the administration and many of our colleagues on the other side have deliberately blocked every effort to permit the Senate even to debate and vote on this important reorganization legislation.

I have been encouraged by recent events that we may finally see a Senate vote on a State Department authorization bill, perhaps as early as this evening or tomorrow.

We shall see about that. The actions of the CJS appropriators have been instrumental in causing the administration to recognize that the issue of reorganization and consolidation is not going to go away.

I am very appreciative of the actions of Senator GREGG and Senator HOLLINGS and others to stipulate that this appropriations conference report waives authorization only until April 1, 1996. Now, this key provision will require the administration and the Congress to act on an authorization bill for 1996.

Without an authorization bill, the authority to spend appropriated funds for the State Department and other related agencies will expire on the first of April next year.

Now, as I mentioned earlier, the issue of reorganization and consolidation of the foreign policy apparatus of the United States is not going away. Every day that the administration refuses to plan for the future, the State Department is going to pay a price for it.

I hope that we can move the authorization bill into conference to provide the administration with the authority and the flexibility needed for a successful restructuring of its operations. If President Clinton does not find this legislation acceptable, he will provide the Senate with yet another opportunity to revisit the consolidation issue on this appropriations bill.

In any event, it is my understanding that the administration opposes this conference report because, first, it provides $223 million less for international operations spending; second, it reduces the President's request for peacekeeping operations by $220 million; third, it cuts the State Department salaries and expenses spending by $50 million; and, fourth, the President does not like it because it reduces the State Department's foreign building spending by $36 million, including a $60 million rescission. The fact is, this conference report requires the administration to cut spending, and that is what the President does not like. That is what the whole argument has been about all along. I wish it could also force the President to reduce the size of the Federal bureaucracy, but we can work on that later.

However, as a practical matter, Senator GREGG's initiatives to reduce funding levels in this bill will require the administration to restructure its efforts so as to meet reduced funding levels. H.R. 2076 is approximately $500 million below the authorization levels of the Senate Foreign Relations bill. At a time when the Federal Government is approaching the $5 trillion Federal debt mark, the work of Senators, like Senator GREGG and Senator HOLLINGS and others, is most encouraging.

At my request, and I am so grateful to him, Senator GREGG included a 4-year extension of the Au Pair Program. There is a similar provision in S. 908, the State Department reorganization bill. The Au Pair Program expired on September 30, and that has caused great hardship among many working parents. Senator GREGG agreed to include the extension of the program in the appropriations bill, since Au Pair enjoys wide support.

So, in summation, I come here to thank the two managers of the bill. My friend, Senator GREGG, has particularly been helpful, working with me. He has made some very wise and reasonable decisions in this bill. I congratulate him. I congratulate Senator HOLLINGS, and I urge our colleagues to support the CJS conference report.

Mr. President, if I have time remaining, I yield it back and I thank the Senator.

Mr. GREGG. Mr. President, I thank the Senator from North Carolina for his generous remarks. His assistance and guidance and thoughts on this bill were extraordinarily helpful to me. Obviously, coming to this bill at a late date, it was very nice to have the chairman of the Foreign Relations Committee there to give me his thoughts and help us in crafting the bill. I very much appreciate that.

At this point, I will suggest the absence of a quorum——

Mr. HOLLINGS. If the Senator will withhold just a minute, the Senator from North Carolina, the chairman of our Foreign Relations Committee—let me say publicly, which I have told colleagues along the line, the initiative of our distinguished chairman of the Foreign Relations Committee to blend in

the U.S. Agency for International Development Program, the U.S. Information Agency, the Arms Control Disarmament Agency, and the other particular programs that they have in the Department of State is, I think, a salutary initiative on the chairman's part.

I have worked the budgets. Specifically, if they appointed me the Under Secretary of State in charge in Africa, I could look over and could designate the needs. At the present time, if I did, the AID Director would say, ''Oh, no, this is where we are going to put it.'' And he has all the money.

We need a coordinated effort. We can save, really, millions with the particular initiative. I happen to know, as he knows, five Secretaries of State have recommended this. I intend to support the distinguished chairman of our Foreign Relations Committee. I state that as having been at the financial end of these endeavors on appropriations for over 25 years now.

Mr. HELMS addressed the Chair.

Mr. GREGG. I yield to the chairman as much time as he desires.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have enjoyed working with both of these Senators—a little longer with Senator HOLLINGS, because he and I have been around here longer. But the Senators from New Hampshire and South Carolina are remarkable Senators. And I appreciate your comments, Senator HOLLINGS. I thank Senator GREGG.

Mr. GREGG. Mr. President, at this point I suggest the absence of a quorum and ask the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Thank you, Mr. President.

Mr. President, I rise today to urge my colleagues to support passage of the Commerce, Justice, State appropriations bill as it has come from the Appropriations Committee so that we can get it to the President. As everyone is well aware, the President has signaled that he will veto this bill. We need to pass the bill and then begin the task of fixing any of the remaining problems contained in this legislation.

We are at a watershed moment in this Nation's history. We are deciding whether or not we will have a balanced budget or whether we will continue to plunge our Nation into debt and mortgage our children's futures. This bill represents one piece in the puzzle to achieving a balanced budget. While imperfect, this legislation nevertheless represents an honest effort to achieve a fiscally responsible Federal budget.

Of course, there are programs that I would like to receive more money. I am sure there is not a single person sitting in this Congress who would not want to spend more money on some particular program or issue. This bill, however, represents a compromise between our desires, and our true, fiscally responsible, law enforcement needs.

To my colleagues that voted for the balanced budget amendment, I would ask them to vote for this bill. To my colleagues who voted against the amendment, but believed we needed a balanced budget and could achieve such a budget, I tell them now is their hour. Now is the time. This is an opportunity for them to prove that they can exercise the discipline and restraint needed to achieve a balanced budget.

Even with the cuts necessary to achieve a balanced budget, I would note that the Department of Justice receives a nearly 20-percent increase over fiscal year 1995. The violent crime reduction trust fund, moreover, will be increased by some $1.6 billion. While the conference bill does not provide federal law enforcement with as much money as I might otherwise want it to, it nevertheless represents an enormous commitment to fund core federal law enforcement programs.

For example, the conference report provides the Immigration and Naturalization Service with nearly $2.6 billion. This represents a 23.5-percent increase over fiscal year 1995 enacted levels. The conference agreement provides funds for 800 new Border Patrol agents and 160 new support personnel.

If you look at this chart, the Department of Justice budget authority between 1990 and 1996, you can see that it is going up dramatically from around $8¼ billion up to almost $16 billion. It has almost doubled in the last 6 years. So we are spending an awful lot of money, and I think doing it in the right way.

The bill also increases, by some 1,400 positions, personnel dedicated to apprehending, locating, and deporting illegal aliens.

The FBI receives over $2.5 billion, a 9.8-percent increase over 1995 enacted levels. Additionally, construction funds are provided to renovate the FBI Command Center, to modernize the FBI Training Academy for use by Federal, State, and local law enforcement officers, and to begin construction on a new FBI laboratory.

Similarly, the U.S. attorneys offices receive an over 8.5-percent increase in funds compared to the 1995 enacted levels.

The DEA receives some $806 million, a 6.4-percent increase over last year. This provides DEA with funds to improve its infrastructure and to better support investigative efforts.

In addition to these law enforcement expenditures, the bill also fully funds the Violence Against Women Act, legislation that I worked on with Senator BIDEN to get passed last year. As most of my colleagues are aware, I have long opposed programs I believed were mere pork projects. In fact, I led the battle against last year's crime bill because I felt that it had ballooned in terms of unjustified costs. The Violence Against Women Act, however, is an important program that deserves to be fully funded. The act provides funds for: rape prevention education; battered women shelters; the investigation and prosecution of domestic violence and child abuse in rural areas; treatment and counseling programs for victims; and grants for developing community domestic violence and child abuse education programs.

These programs are vitally important. Prosecutors and police officers must become more sensitized to the problem of violence against women. Women who are abused by their spouses must have a place to stay and must have counseling available to repair their shattered lives. Resources need to be channeled to stem the tide of violence directed against women.

According to Justice Department data, nearly a half-million women were forcibly raped last year. Some studies estimate that the total number of rapes, including those not reported to authorities, may exceed 2 million.

Similarly, domestic violence strikes at the heart of the most important political unit in America—the family. The family should be a safe harbor for those tossed about by the storms of life, not a place of abuse or degradation.

The act is one small, albeit vital, step toward addressing the problem of family violence, and violence against women generally. A vote for this conference bill means a vote to combat violence against women.

The conference bill also contains legislation I introduced with the distinguished majority leader to reform frivolous prison litigation. This landmark legislation will help bring relief to a civil justice system overburdened by frivolous prisoner lawsuits. In 1994, over 39,000 lawsuits were filed by inmates in Federal courts, a staggering 15-percent increase over the number filed the previous year. The vast majority of these suits are completely without merit. Indeed, roughly 94.7 percent of these suits are dismissed before the pretrial phase, and only a scant 3.1 percent have enough merit to reach trial. In my home State of Utah, 297 inmate suits were filed in Federal courts during 1994, which accounted for 22 percent of all Federal civil cases filed in Utah last year. The crushing burden of these frivolous suits is not only costly, but makes it difficult for courts to consider meritorious claims.

Indeed, I do not want to prevent inmates from raising legitimate claims. While the vast majority of these claims are specious, there are cases in which prisoners' basic civil rights are denied.

Contrary to the charges of some critics, however, this legislation will not prevent those claims from being raised. The legislation will, however, go far in preventing inmates from abusing the Federal judicial system.

They will have to pay something to file these charges, and that stops a lot of the frivolous cases right there. And there are other mechanisms that will make them think twice before they file frivolous law suits.

This legislation will also help restore balance to prison conditions litigation and will ensure that Federal court orders are limited to remedying actual violations of prisoners' rights, not letting prisoners out of jail. It is time to lock the revolving prison door and to put the key safely out of reach of overzealous Federal courts.

As of January 1994, 24 corrections agencies reported having court-mandated prison population caps. Nearly every day we hear of vicious crimes committed by individuals who should have been locked up. Not all of these tragedies are the result of court-ordered population caps, of course, but such caps are a part of the problem. While prison conditions that actually violate the Constitution should not be allowed to persist, I believe that the courts have gone too far in micro-managing our Nation's prisons.

This bill also contains important changes to the Prison Grant Program. The conference bill provides nearly $618 million in grants to States to enable them to engage in the emergency buildup of prison space and to encourage the States to adopt tough truth-in-sentencing laws. In contrast, the President requested only some $500 million for prison grants.

The conference bill makes four key changes to the prison grants provisions included in the 1994 crime bill:

First, it authorizes significantly more resources to assist the States in implementing a much-needed emergency buildup in prison and jail space.

Second, it removes onerous and unnecessary Federal strings that were attached to the 1994 grant program, and that would have eaten up a significant portion of the grant money provided.

Third, it ensures that the Federal money will be used to increase available prison space, instead of permitting the funds to be used for a variety of so-called alternative sanctions, which would have left the States in the same dire need of prison space at the end of the grant program as they are now.

Finally, it includes meaningful incentives—not mandates—for the enactment of State truth-in-sentencing laws.

Prison crowding in many of our States has reached crisis proportions. The average prison system in the United States is operating at 112 percent above its rated capacity. In 24 States, prisons are under court-ordered population caps. And, in 1993, an estimated 21,000 inmates in 18 States were released under so-called emergency release programs to relieve crowding—the ''Corrections Yearbook,'' 1994. In other words, 21,000 criminals were returned to the streets not because they were no longer a threat to law-abiding citizens, but merely because there was not enough room to keep them in prison.

The Federal Government, of course, cannot solve this crisis for the States. But it can and should provide meaningful emergency assistance.

This bill also provides meaningful incentives for States to enact truth-in-sentencing laws. At least 50 percent of the funds under this program are reserved for States that practice truth in sentencing. It is appropriate for the Federal Government to encourage the States, through the provision of extra funds, to adopt truth-in-sentencing laws that honestly tell citizens—and warn criminals—what the penalty is for breaking the law. This does not mean that the Federal Government should dictate any particular sentencing system or sentence length. But it does mean that those States with criminal justice systems that mean what they say should be rewarded.

I would like to briefly dispel a misconception about this truth-in-sentencing provision. Some of my colleagues are concerned that this provision will mandate that States adopt long sentences that they cannot afford to impose. This is simply not the case. The issue is not sentences of any particular length, rather, it is truth in sentencing. Recent data from the Bureau of Justice Statistics demonstrate that as of 1991, State prison inmates serving sentences for violent offenses expected to serve less than half of their sentences.

The data also show that the inmates' expectations were accurate—violent prisoners released in 1994 served an average of only 46 percent of their sentences—''BJS Selected Findings, Violent Offenders in State Prison: Sentences and Time Served, July 25, 1995.'' Moreover, in 1991, the Department of Justice reported that the average murderer was sentenced to 20.5 years, but served only 7.7 years; the average rapist was sentenced to 13.3 years, but served only 4.6 years; and the average robber was sentenced to 9.9 years, but served only 3.3 years. This is outrageous.

Continued public confidence in our criminal justice system requires that sentences mean what they say. A 20-year sentence should not mean release in 7 years, once a person has committed a murder and been convicted of it. This legislation will provide the States with grant incentives to ensure that violent criminals serve the sentences imposed.

Furthermore, Federal incentives work. A recent report from the National Institute of Corrections stated that of the 29 States that considered truth-in-sentencing legislation in the 1995 legislative session, 60 percent reported that Federal incentives were a significant factor, and 20 percent reported that these incentives were the main or only factor.

Thus, even under last year's weaker truth-in-sentencing provisions, progress is being made. However, this bill is necessary to protect those gains and ensure that they continue. Under last year's bill, States may qualify for truth-in-sentencing funds by enacting laws providing for truth in sentencing only for second-time violent offenses.

Even more astonishing, States that do nothing to change their laws could end up with a chunk of the truth-in-sentencing grants by simply waiting for the funds to revert to the general grant fund, as the last year's bill provides. Keeping faith with the States that have made legitimate strides in their area requires that we eliminate these potentially unfair loopholes.

It is also vital, however, that we provide allowances for differences among state correctional policies, and not penalize States that practice indeterminate sentencing, yet do an admirable job of keeping violent criminals off the streets. My home State of Utah, for example, employs a release guideline system that allows the board of pardons to keep the worst criminals off the streets longer than would be possible in many determinate sentencing systems. This amendment accommodates successful indeterminate sentencing States.

Finally, I would like to address the law enforcement block grant proposal. While I do not fully support the language of the current proposal, I nevertheless believe we should pass the conference report and fix the problems after the President returns it to us. This proposal improves, at least in certain respects, the administration's so-called COPS Program. I understand that the President prefers the COPS Program, but I believe that a block grant program better supports the local communities law enforcement needs.

To begin with, this program moves us away from the Washington-knows-best philosophy. The proposal returns responsibility to frontline local law enforcement officials. If, for example, a community believes community-oriented policing works best in its jurisdiction, it can hire police officers and structure a community policing program. If, however, the community needs bullet proof vests or communications equipment, it can buy that equipment with these funds.

A serious problem with the so-called COPS Program is that the award is entirely discretionary. It lacks a solid formula and instead depends upon the good graces of Washington bureaucrats to distribute the money.

The conference report, however, establishes a formula to distribute the money on a fair, consistent basis. Communities will no longer have to wonder whether or not they are going to receive a grant.

This proposal also contains a lower matching requirement than the President's program. Therefore, poorer communities can hire more police with less of a financial strain on the community. By lowering the match, we do not penalize poorer cities that cannot afford it. This is what the American people want—assistance in handcuffing criminals not handcuffing communities.

Critics complain that a block grant will lead to the abuses of the old LEAA Program of years past. I would note, however, that LEAA did far more good than harm. And many of the LEAA grants occurred before the professionalization of the Nation's police forces. I do not believe that the excesses that occurred under the LEAA would occur under the proposed legislation. Indeed, I think that the Byrne grants stand as a testament to the ability of local communities to wisely look after their own best interests.

While this conference report is imperfect, I encourage my colleagues to support it and permit us to fix any remaining difficulties after the President has vetoed it. In closing, I would just like to thank Senator GREGG for his work on the report. He has consistently sought out the views of the Judiciary Committee and has attempted to incorporate our views into the final product. I look forward to working with Senator GREGG.

Mr. HOLLINGS. Mr. President, I yield—5, 10 minutes?

Mr. BRYAN. I would appreciate it if the Senator will yield 10. I probably will use less.

Mr. HOLLINGS. I yield 10 minutes to the distinguished Senator from Nevada.

The PRESIDING OFFICER (Mr. KYL). The Senator is recognized for 10 minutes.

Mr. BRYAN. I thank the distinguished Senator from South Carolina.

Mr. President and my colleagues, I wish to express my profound disappointment that the U.S. Travel and Tourism Administration funding is not included in this bill.

I know that my friend and the ranking member of the Commerce Committee, Senator HOLLINGS, proudly and rightly proclaims himself as one of the founding fathers of this very important function. We are talking about something that in the current year is funded at a modest level of $16 million. It is a program which has enjoyed bipartisan support. I wish to emphasize that. When we came to the floor earlier this year to amend the Senate version to continue it for a 1-year transition, a 1-year transition of $12 million in funding, we had the support of Senators MCCONNELL, HOLLINGS, MURKOWSKI, INOUYE, THURMOND, DASCHLE, and many others.

So the point I wish to make to my colleagues is that this is not an issue which had as a cutting or defining edge any sense of partisanship. We had broad bipartisan support.

Why do I think this is such an important function? First of all, tourism is either the No. 1 or No. 2 or number No. 3 industry in every State in America. It generates $417 billion annually and is recognized as being, with the possible exception of the health care industry, the largest employer in America.

In the context of our difficulty with the international trading accounts, where the United States suffers from an enormous trade imbalance, when all of those individual categories are added together, it is a shining example of where we enjoy a trade surplus, net trade surplus, of some $22 billion.

So this is an agency that is worth every penny that is expended. Putting this in the context of what is happening in the world today, out of the 175 major countries in the world, we will be the only one without some type of a national tourism office. The timing of this, it seems to me, is particularly bad. We are talking about jobs, travel tourism provides 6.2 million direct jobs, and is growing at twice the rate of job growth in the national average.

So this generates economic growth here at home, jobs, $417 billion in the economy. In terms of the international trade, we have a net surplus of $22 billion. And all we sought to accomplish in this bipartisan amendment was to keep the agency funded for one more year, one more year, at a level of $12 million.

What the conference report did, it seems to me, is absolutely indefensible, both in terms of philosophy as well as pragmatism. It will cost us under the provisions of this conference report, to terminate this agency immediately, $8 million. We get nothing for that $8 million. It simply represents severance pay to existing employees and the various costs that are incurred in terminating existing contracts. I mean, in is like cutting off your nose to spite your face.

This makes no sense at all, Mr. President. And I know the distinguished occupant of the chair from my neighboring State knows how important tourism is to his own State. We share a common interest in one of nature's great wonders in the Southwest, the Grand Canyon.

International tourism is driven to a large extent in our part of the world because of the interest and desire in seeing this great wonder of nature. We spend less than Malaysia, Tunisia, countries that are not ordinarily identified as states that are in the vanguard of promoting tourism.

So I must say that I think we miss a tremendous opportunity here. We just had a very, very successful White House conference on tourism. Bipartisan in every sense. It is the first time in the years that I have been involved in the tourism movement. And I was very much involved, as the Governor of Nevada, in putting together, in our State, a strategy at the State level to develop a comprehensive approach to tourism that compliments what is done with the local visitor and recreation authorities, particularly in the Las Vegas and Reno areas, where the two most active authorities exist, putting together that partnership which made it possible for us to generate the largest growth of tourism that has occurred in the history of Nevada.

So I must say that I am extraordinarily disappointed in this. It is bipartisan in every sense. We ought to, it seems to me, in the interest of making some sense, see if we cannot at least keep this agency one more transitional year.

In that sense I certainly would invite comment from either the floor manager or the minority floor manager here in terms of, do we have any chance, my colleagues, of getting this funding, as the President indicated he is going to veto the bill so it will come around again.

I certainly would pledge to work with the distinguished floor manager from New Hampshire, my long-time friend, the former chairman of the Senate Commerce Committee and one who actually presided at the birth. This ought not to be an issue that divides us, Mr. President, on partisan grounds because it has broad bipartisan support. The Governors support it. The private sector is most energized, and as I say, this White House tourism conference was the first time in years I have been involved where we actually brought in every segment of the tourism industry, focusing on a strategy of how we can increase our international travel.

I would certainly invite comments from my friend, the Senator from South Carolina.

Mr. HOLLINGS. If the distinguished Senator will yield, Mr. President, let me first acknowledge the leadership of the chairman of our tourism caucus. As he has indicated, he has correlated a most wonderful coordinated effort on both sides of the aisle and more or less some on the House side.

But I say to the Senator, in responding—I must say that the House conferees were pretty adamant. The Senator had the cooperation of our distinguished chairman. The Senator had the cooperation of this particular Senator. And we continue to do our very best. But I can tell the Senator, they were pretty intransigent on the House side.

Mr. BRYAN. I am not unmindful of the difficulties that occur in trying to reconcile differences between the two bodies.

I say to the distinguished chairman of the subcommittee, the floor manager, the Senator from New Hampshire, I pledge to work with him as well to—this is not a partisan issue. And I would certainly, if he has any thoughts in terms of how I could be helpful, those of us who have spent a good bit of time in trying to work out a reasonable compromise, reorganizing that the agency is going to be terminated at the end of the next fiscal year under the proposal that we advanced as a compromise measure, I certainly would be happy to be guided by his suggestion in terms of how we might approach our

colleagues in the House who are perhaps less informed about what this means to all of us.

Whether we are from the West, the Northeast, the South, wherever, clearly we have an industry which is growing enormously. We are going to have 661 million people that will be traveling throughout the world by the turn of the century. And America is the travel bargain of the world. I certainly would be happy to yield to my friend from New Hampshire and take any suggestions that he might have in terms of how one might work with him and our Senate colleagues who understand how important this is.

Mr. GREGG. I certainly appreciate the Senator from Nevada's interest in this, and his understanding of the importance that tourism plays in the economy, obviously of his great State, but many of our States, tourism being the largest employer in the State of New Hampshire.

However, I think the concerns that the House raised had some credibility. They were concerned about the fact that this agency, although on a theoretical downward glidepath toward being eliminated, may actually have a certain Phoenix-like quality to it, as a result of the conference may actually be coming back to us with the request for funding which would be in the multiple millions of dollars, approximately $50 million as a joint venture exercise.

So I think they decided that rather than go through the gnashing of teeth and trauma of fighting this battle a year from now, to fight it now and terminate the agency. They were very insistent in their position. I suspect that it will be difficult, depending on how this bill comes back, to change that position.

But I am certainly happy to sit with the Senator and work with him on any ideas that he might have. I think the real concern here is that we be on a glidepath to termination and that we not be on a glidepath that is sort of a touch and go.

Mr. BRYAN. I appreciate my friend's comments. If I might respond and engage him in a constructive colloquy. The $50 million that the Senator made reference to is $50 million of private-sector capital. As I am sure the Senator from New Hampshire is aware, at the White House conference one of the reasons that was part of the compromise—which was accepted by the Senate—that was crafted in the fashion in which it was was that we recognized that the agency would terminate at the end of this fiscal year under the proposal the Senate embraced. Therefore, during this transitional year the industry would have to come up with this $50 million.

I say to the Senator—I know he knows this; perhaps our House colleagues have not followed as closely; again, I would certainly be delighted to work with him—that $50 million is not an attempt to come in sideways or in the back door to get $50 million Federal dollars. I can represent to the Senator from New Hampshire that, if we can get this compromise in a future conference report, because the President indicated he is going to veto this, that I will represent to him it will be my intention to oppose any attempt to extend the agency beyond that year, based upon a representation that we made on the floor.

So I am not part of any effort, I can assure my colleague, to just keep it alive this year and then argue, ''Well, look, we need to keep it alive another year.'' This is $12 million. This is it. And this is the transitional year for the industry.

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

Mr. GREGG. Mr. President, I yield myself time.

The Senator from Nevada has expressed a good case in the context of ''we are going to terminate this agency; is it $12 million or $2 million we need to do that.'' The concern the House raised, I think, is a legitimate concern.

I want to give a very distinct clarification on this. As I understood the small business conference report, they wanted to follow, or suggested they follow, the Canadian system where the private sector does put in $50 million, but the Government puts in a matching amount, and that there is, if not stated, at least an implication we are going to end up with a joint program involving the Federal Government or a request for a joint program involving the Federal Government once the private sector has raised the $50 million. I think that is the concern. That type of contingent, potential liability should be nipped now rather than get into the fight at a later date.

We will certainly rejoin this issue when we get the bill back, and I appreciate the Senator's thoughts.

Mr. BRYAN. Will the Senator yield for the purpose of a single question?

Mr. GREGG. Certainly.

Mr. BRYAN. Let me say, clearly the decision that we deal with is, what do we do during this critical year? I understand the concern that may be addressed as to, will there be a request next year or the year thereafter? I put my own credibility on the line and tell the Senator that, to his House colleagues and to our House colleagues who may have that concern, this is not a guise to come back next year or the year thereafter. This, I think, is a very practical way to deal with the situation, which we all acknowledge that the Agency is going to be terminated after the end of the year, as a practical matter. For $12 million, we get the benefit of a functioning Agency; for $8 million, we get no benefit at all and simply pay folks to terminate contracts and for severance pay.

To the extent I want to be helpful, I assure the Senator I want to work with him and encourage him to use his own legendary persuasive skills as a former chief executive of his own State. I have some sympathy and understanding of how effective the Senator can be. Our distinguished friend from South Carolina also served as a chief executive of his State. So, together, we can work on this. We are only talking about $12 million. I think we may be able to get that back in.

I thank the Senator.

Mr. GREGG. I appreciate the comments of the Senator from Nevada. Probably the best way we can get that money is to get the entire Congress out of here for Christmas.

At this point, I suggest the absence of a quorum and ask that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, it is my understanding that there is roughly 1 hour 40 minutes under my control. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BIDEN. Mr. President, I yield myself such time as I may use up to that point.

I rise today in opposition to the Department of Justice appropriations in this conference report and an attempt by my Republican colleagues to rewrite the anticrime legislation on an appropriations bill.

In my view, it is a lousy idea to rewrite crime policy on an appropriations bill, wiping out major programs the Senate created only last year after 6 years of extended debate and replacing it with new programs without review or debate and doing it all on an appropriations bill. It is unnecessary, in my view, and it is completely contrary to how the Senate has traditionally worked.

I assume—and I see the distinguished chairman of the appropriations subcommittee is here—I assume it is because you cannot get the votes straight up and down to change the law through the authorizing process, because I have not seen anybody come here to the floor and say they do not want 100,000 cops. I have not seen anybody come to the floor and say they do not want the prison money the way it is allocated. The argument goes on. But it is kind of doing it in a way that obviates that kind of debate, discussion and votes on individual items within the crime bill.

We all know that the Republicans have wanted to change the crime bill, and they have wanted to change it since it was passed, I assume in part because it has a Democratic label on it. I have not heard many other compelling reasons why it is a bad idea. But they say it is in their Contract With America to change the crime bill. I do

not know anywhere under the Contract With America the American people said they do not want 100,000 more cops. I do not know of any police under the Contract With America who say they do not want to build any more prisons or who say they want to go back to the old LEAA days where cops could buy Dick Tracy watches, and small municipalities could buy armored personnel carriers, and you could spend money on public defenders instead of on a cop, which you can do now the way the Appropriations Committee has rewritten this legislation.

I do not recall anybody who ran as a Republican on the Contract With America campaigning on those issues. The fact is that Senator DOLE and Senator HATCH at least had the good grace to straightforwardly introduce a bill to change the 1994 crime law, and they have every right to try to do that. They introduced such a bill, but they have not chosen to act on it. No one has called up the crime bill.

Where is the crime bill? I have been hearing since the day that Mr. GINGRICH became Speaker and the Democrats lost control of the Senate that one of the first items on the agenda was a Republican crime bill. Well, bring it on. Where is it? Where is the Republican crime bill? Let us debate it. But, no, the Republican crime bill is now in the appropriations bill, allowing everyone to go back home and say, no, I did not eliminate the 100,000 cops; I did not eliminate the drug courts; I did not do that; I did not change any of that. All I did was vote for an appropriations bill to give you more flexibility.

Translated, you do not get 100,000 cops. Translated, you do not get what is in the crime bill. Where is the Republican crime bill? Please bring it to the floor. I have been waiting to debate it. I can hardly wait. But it looks like I am going to wait until the next Congress, assuming I am here, which is not an assumption I am relying upon.

This is a blatant attempt to sidestep the usual process in this body and, I think, by stealth to try to get it both ways. This bill is, of course, dead. Dead. Dead. It is not going nowhere, to use the vernacular. It may have the votes to pass here. I hope that allows you all to say that you have fulfilled your contract with yourselves, but you are sure not fulfilling a contract with the American people.

I hope you will feel good about that and then maybe, after you come back, after the President vetoes this, we will go through this again. Let us do it straight up, because I want you to stand up on the floor and say, I do not want 100,000 cops. Say it. We will debate it. Take it to the people.

Notwithstanding that we will be right back here doing this again in a few days, I should like to list and then explain some of the major changes this conference report proposes. First, as I have mentioned, it would eliminate the 100,000 cops program that was established a year ago in the crime law and maintained in the Senate appropriations bill. Because we had this debate, remember. We did this over here through the appropriations process. And as they say in the southern part of my State, ''Y'all lost.''

But never fear; GINGRICH is here. So you headed to the other side, and you caved in in conference and now are back here, I assume in part, to be able to go home and say, ''We didn't cut the 100,000 cops program.''

We have already funded more than 25,000 new police officers across the country in this first year alone, and I challenge any of you to go home and hold a press conference and say you did not want those cops to come to your State—25,000. ''Moses'' Heston, better known as Charlton Heston, ran ads, was on an ad for months when we were debating this crime bill saying there was not even enough money in here for 20,000 cops. We already have 5,000 more than ''Moses'' thought would be in the bill, with 75,000 more to come—unless this became law.

There are 25,000 that police departments across the Nation have already put in place, and police departments across the Nation have already applied for more than $0.5 billion in fiscal year 1996 to fund an additional 9,000 new cops, and these pending applications are now threatened by this conference report. In its place is a law enforcement block grant, the old LEAA Program, which is written so broadly that the money could be sent back to the States, could be spent on everything from prosecutors to probation officers, from traffic lights to parking meters, and not a single new cop. The block grant, this block grant that is in the bill now has never been authorized by the Senate.

Let me explain why, when I wrote this bill in the first place, now the crime law, I insisted it go for cops. Because the way it works now is that in order to get a new cop at home the Federal Government will put up roughly $75,000 if the mayor, the county executive, or whomever puts up the rest. But it requires the mayor, the county executive, the Governor to step up to the ball, stop mouthing to their constituents they want more cops; they just cannot do it. But under this legislation, they will get the money and they will not buy the cop because when they buy the cop, they have to make a commitment they are going to keep that cop for 5 years and they are going to straightforwardly tell the voters, their constituents, that is what they are spending the money for. It is going to be a lot easier for them when they do the budget now to say, I can make it look like we are making progress here; we will not hire any new cops. We will pay for those traffic lights we were going to buy out of our city taxes with Federal dollars.

I used to be a county councilman. That is what we did with the old LEAA money. We did not hire any more cops. What we did, we fired cops. We fired cops; we fired firemen; we fired law enforcement people who we were paying for with county funds and we rehired them with the Fed money.

I see some of the staff on both sides are smiling. That is what we did, and that is what will happen again. Because then we would say—I will never forget sitting in a county council meeting. The chairman of our council was a very distinguished man, his name was C.W. Buck. I mean that sincerely. He was a very distinguished Republican. His father had been the Governor of the State of Delaware. I turned to Mr. Buck, saying, ''Mr. Chairman, how much will this cost us?'' He looked at me and said, ''It will not cost anything.'' I said, ''Why?'' He said, ''It is Federal money. We don't have to put up a cent.''

So in New Castle County, DE, and Wilmington, DE, we laid off cops, then hired them back with Federal money. What was the net effect? Not one ounce of additional public safety, guaranteed. Not one new cop. But, boy, it is real appealing when you are the county executive and real appealing when you are the Governor and real appealing when you are the mayor not to have to come up with any money, and then go tell your constituents what you are doing for them.

Now, look, if Governors and mayors—if the reason you Republicans are doing away with this program is in the name of helping localities so they do not have to put up their money to get a cop, great. Under the existing legislation, they did not have to ask for a cent. There is no requirement that says, Athens, GA, must send in a request for more cops. Athens, GA, or Berlin, NH, they say, ''We don't want any more cops and we don't want any more Federal money.'' No problem. Send it to Delaware. We will pay.

So in the name of helping localities, letting them, from a ''block grant''—that is a code word, folks. Block grant means ''we don't have to spend it for cops because cops cost us money. It costs us money.'' Governors and mayors and county executives, they have their budget people coming in saying, ''Look, Gov, look, Mr. County Executive, look, Madam Mayor, if you sign on to this, this means we have to, for the next x number of years, put in our share of what this additional cop is going to cost us.''

It is like what you find in most States. I have never been to a State legislative body—and I have been to a number and had the privilege of speaking to a lot of them—but Democrat or Republican, where they did not have, in the State legislature, debate that goes like this: ''You know, violent crime is an overwhelming problem in the State of x, and we must do more to fight crime. We're going to pass laws that increase the penalty tenfold, and we are going to do this, and so on.''

They do pass all the penalty laws. And then somebody has the temerity

to say, ''By the way, we don't have enough prisons to put these people in. We don't have the prisons. There's not the space.'' And then what do those folks do? Do they go to you, the voters, and say, ''Well, you know, we have got to raise your taxes to build more prisons''? Oh, no. They tell you how tough they are, and then they let the folks out of prison.

That is why, by the way, nationwide, if you live in the State of Pennsylvania, you live in the State of California, you live in the State of Texas, when you get sent to jail, you do not go to jail for the time for which you are sent. You get 10 years for robbery? You serve on average 4.6 years. But guess what? In the Federal Government, you get sentenced to 10 years, you go to jail for 10 years. Bingo.

You ever wonder why folks do not want to be tried in a Federal court and they prefer to be tried in a State court, even in tough hang-them States like Texas and States like mine? Because they are not nearly as tough as the Federal Government, because we put our money where our mouth is. We have said, ''You do the crime, you do the time.'' It is called the Sentencing Commission. I authored it with several other people back in the early 1980's. And we do not fool around.

The point I am making is one that is not popular to make, and I should not make, I am sure my political folks are going to tell me, but it is the truth. We let the States off the hook, we let the cities off the hook. They will not hire the cops, and that is what you all are doing. That is what you Republicans are doing here. It is not going to enhance public safety one iota.

I want 100,000 new cops on the street. That is why I wrote the bill. We have roughly 550,000 local police officers. When this crime bill is all over and we spend $30 billion, if you all have your way, we will have 575,000 cops on the street, maybe. I want 650,000 cops on the street. We need more cops.

Again, you do not have to ask for a single cop, Governor; you do not have to ask for a single cop, Madam Mayor; you do not have to ask for a single cop, County Executive. But if you ask, you have to kick in, and we will give you $75,000 per cop on average. Pretty healthy commitment by the Federal Government.

Let me tell you what else this bill would do. This bill would completely eliminate or severely restrict other programs set up in the 1994 crime law, like the Drug Court Program, the Rural Drug Enforcement Grant Program, the Law Enforcement Scholarship Program, the Scams Program for fighting telemarketing fraud against senior citizens, that the Senator from Utah, the distinguished chairman of the Judiciary Committee, Mr. HATCH, authored and I coauthored. There are tried and tested programs that fight youth violence, for example, by putting boys' and girls' clubs in housing projects. Under the 1994 crime law, these programs were targeted for separate funds in addition to the funds for the 100,000 cops.

But under the conference report of the Appropriations Committee, a mayor would have only the amount of the block grant out of which all efforts would have to be funded. The result would be that proven crime-fighting programs that the Congress voted to support last year would be effectively eliminated.

I hear everybody talk, especially my good friend from Texas, PHIL GRAMM, talk about being tough on crime. And I hear a lot of my folks out there—a lot of folks on your side of the aisle—talk about a lot of these liberal mayors. Well, guess what the liberal mayors are going to be able to do with your block grant? They are going to be able to put it all in programs if they want. They can go out and put it all in boys' clubs and girls' clubs if they want. They can put it all in prevention if they want, and not one new cop if they want.

Now, all of a sudden, I am amazed how trusting you are. I hear Senator GRAMM and others talk about the liberal Conference of Mayors. Well, my Lord, you are a trusting bunch. You really are. You have seen the light. I guess you are for straight prevention now. What do you think the cities are going to do with this money? You and they are going to go out and hire cops? Oh, yeah, right. With their tight budgets? So you folks on the Republican side, I am amazed, have become the lily-livered liberals, what I am called over on this side. You all are the ones now changing the rules. You are changing the rules.

Now that this can be all spent for prevention, who are the tough guys? I hope you are not going to stand up and make any more of those speeches about, ''Lock them up and throw the key away, and don't take my mama's gun away,'' the ones we hear, you know, rolled out every 4 months or so.

Block grant means just that, it is a block grant: ''Here you go, Mr. Mayor, do with it what you wish.''

You all ran ads, your national party ran ads last election of prisoners dancing in tutus. I thought it was really good. It was a great ad. It shows these prisoners dancing in pink tutus saying, ''That's what the Democrats want to do.'' That is not what we did, but that is what you are doing. Can you imagine where this money would go if Jerry BROWN were still Governor?

And you talk about getting tough on crime? This is not tough on crime, this is just dumb. This just does not make any sense. If we are going to legislate by fiat like this, then we might as well do away with committee systems, with hearings, with subcommittee markups, with full committee markups, with careful consideration of authorizing legislation. We can simply do all our Senate business by appropriations bills, which is the way we are doing it these days.

I guess I am number—I do not know. I do not know what my number in seniority is. I think I am 16, 17, 15, something like that. In light of the 99 decisions not to run again for office, if I get elected again, I may even be higher.

I made the wrong pick. I came here to legislate. I should have gone on the Appropriations Committee. I made a big tactical mistake here. Had I gone on the Appropriations Committee, I would be the No. 3 or 4 ranking person on that committee. Why have a Judiciary Committee? Why have a Commerce Committee? Why do this? They do not legislate any of this.

I ask a rhetorical question: Why did my friends, Senator DOLE and Senator HATCH, not bring their crime bill to the Judiciary Committee to be acted on? Why did we not do that? I respectfully suggest it is because they did not have the votes to win. I respectfully suggest that in order to win, you would have to say, ''By the way, we don't want 100,000 cops added by this crime bill; we don't want more prisons built in this crime bill the way we had; we want to change it.''

Any of you who doubt what I am saying, any of the press who is listening to this, you go ask any chief of police in the United States of America, you go ask any superintendent of the State police in any State in America, you go ask the head of any county or city police organization, and you ask him or her whether or not they think they will fare better with their budgets for their city, State or county with a block grant that allows the legislature and the Governor to use it any way he wishes, or whether they will fare better with the proposal with 100,000 cops. You ask them.

When I wrote this legislation, Mr. President, I wrote it by first calling in the six major police organizations and asking them, ''What do you need most to deal with the crime problem in America? What do you need the most?'' And they told me. So I wrote the bill with them in the room.

They were the ones who said, point blank, ''If you don't require the Governors, the mayors to come up with some of the money for only cops, we won't get any new cops, because we're an expensive item. When we sit down in the budget process in our town or our city, we have to say to the mayor, 'Mr. Mayor, if you hire this police officer, you are taking on a salary of X amount and benefits of Y amount and you are making a long-term commitment, and that is going to impinge on your budget not this year but every year that that cop is around.' But when you don't do it this way, Joe, what you do is you allow them to say they are fighting crime by putting lighting in parks. That is a one-shot operation and a utility bill. Putting up traffic lights, that is a one-shot operation. Hiring a probation officer,'' which I am all for hiring, which costs less money and allows the city or county or the State to reduce the rest of their State budget to do what they are already doing. This is not revenue sharing, this is about cops.

Now, all that hyperbole about—I even heard one of our colleagues saying when we passed the Biden crime bill, it is now the crime law, I heard my colleague say, ''All this means is we are just going to hire 100,000 new social workers.'' I do not think there is anything wrong with new social workers. We could stand 100,000 new social workers in America. But this is about cops.

Under the crime law, you cannot use the money for that purpose. But my crime-fighting Republican friends and the staff who helped them write this—I do not know if the staff realizes what a favor they have done for their principals. They have now allowed them to hire 100,000 social workers. We should rename the bill: ''The social worker bill.'' You can hire instead of 100,000 cops—there is not enough money left, you can only hire 75,000 new social workers. You cannot do that under my bill, under the crime law, and this is masquerading as fighting crime.

I would like to briefly point out that another Republican plan in this conference report is to drastically cut Federal law enforcement as well. The conference report does the following: It cuts the FBI by $112 million below the President's request, so new FBI agents will not be hired; it cuts the Drug Enforcement Agency, the DEA, $5 million below what the President has requested for drug enforcement officers in this Nation; it cuts interagency drug enforcement by $15 million below 1995 and $19 million below what the President has requested; and it cuts Federal prosecutors by $13 million below the President's request. So much for your credentials of tough on crime.

I do not know why you are doing this. Maybe it is because you want to give tax cuts to people making 250,000 bucks. But for my money, I want a prosecutor. I want a new DEA agent. I want more FBI agents. You cut all of them, every one of those areas you cut below the President's request.

But as the saying goes, talk is cheap. Talk without commitment of dollars is meaningless. Republicans in the conference have failed to fund the President's request for Federal law enforcement despite all the talk about being for law enforcement.

(Mr. BROWN assumed the chair.)

Mr. BIDEN. Let us look at these cuts to Federal law enforcement. The conference report cuts $5 million from the $54 million boost requested for the DEA by the President. Again, we hear a lot of talk about how we need more to fight illegal drugs, and there is much finger-pointing about that the administration should do more, and they should. But in the end, it is the Congress that fails to fund the drug enforcement request of the President.

In yet another important area, let us review what has happened in interagency drug enforcement. The organized crime and drug enforcement task forces combine the efforts of the FBI, the DEA, U.S. attorneys, Immigration and Naturalization and the Marshal Service, Customs Service, U.S. Coast Guard, and the Internal Revenue, all working together in 13 regional task forces to target and destroy major narcotic trafficking organizations. And you need them all. The President requested $378 million for this program, but the Republican conference cut this amount by $19 million. This means that we will cut the important drug-fighting capacity below the 1995 level. In other words, you have all decided that the drug problem, I guess, is less worse this year than last year, notwithstanding all your speeches, with which I agree, that the problem is worse this year than it was last. But you decided to cut it. You did not decide to say we should restructure it or that the money is not being used wisely and we should redo it; you decided to keep the existing system and cut it.

Let me also point out that the Republican conference report cuts the President's request for U.S. attorneys, U.S. prosecutors. Our Federal prosecutors are the ones who prosecute all Federal crimes. You cut this by $13 million. The President requested an increase of $86 million to boost Federal prosecutors, but the conference report backed away from this commitment. In short, the conference report cuts the President's request for Federal law enforcement. So our Federal effort against crime and drugs will be fought by fewer FBI agents, fewer DEA agents, and fewer Federal prosecutors than requested. I assume that is because you all think that there is less crime, that there is less of a drug problem, and there is less of a need to prosecute.

If you believe that, this is fine, no problem. But somebody stand up and tell me that. Stand up and tell me that is the reason why you cut it back. If you tell me you cut it back for budgetary reasons, then I say, fine, you have made your priority choice. You have chosen other things to spend money on, or to cut taxes for, rather than on these. That is a legitimate position to take. But do not get up and tell me how you want to fight crime, how it has gotten so bad, how it is so terrible, how we want to move so rapidly on it, but, by the way, we can all do it with less money and effort. That does not work. That does not work, I respectfully suggest. It may work politically, but not practically.

I would like to return to the merits of the 1994 crime law. The 1994 crime law, in my view, and in the view of law enforcement officers across the country, is working. The passage of the major $30 billion anticrime package last year capped a 6-year effort to launch a bold and comprehensive and tough attack on violent crime in the roots of American communities. As we pass the 1 year mark, it is already clear that the major programs of the bill are working even beyond my expectations. Consider the 100,000 cops program. If this had been a typical grant program, the Federal Government would just now, at the end of the first fiscal year of funding, be preparing to issue its first awards. That is how it has worked in the six Presidential administrations I have been here for. They would be just now doing it.

The better part of the year would have been consumed drafting regulations and preparing application forms before money could finally be disbursed at the end of the year. The implementation of the 1994 crime law stands in stark contrast to this typical scenario. Instead of requiring burdensome applications that often fail to work and fill entire binders, a one-page application was developed by the Attorney General. Instead of waiting until the end of the year to distribute the funds, the money was awarded in batches beginning only weeks after the passage of the law. As a result, we find ourselves, at the end of the first year, with nearly all the fiscal year money out the door, with all of the funds having already been sent on their way to the States, and with more than 25,000 out of 100,000 new cops already funded in every State in the Nation. In a word, the law is working.

In addition to the new police, the law's provisions combating violence against women are also working. The first criminal has been tried and convicted under the new Federal violence against women statute, resulting in a life sentence for Christopher J. Bailey, who kidnapped and beat his wife nearly to death. Otherwise, he would have only gotten a couple years in jail. In addition, charges have already been filed in another case. Every State has received a grant to increase the police, prosecutors, and the victim services to combat family violence. Rape shield laws have been extended to protect more victims. Women no longer have to pay for medical examinations to prove they are raped, which had been the practice up until now. The victims of rape are finally being treated like the victims of any other crime. These long-overdue measures mean that women are now being protected, instead of further victimized, by the criminal justice system.

Another major accomplishment of the 1994 crime law is the military-style boot camp prisons. Crime law dollars are already at work helping 27 States plan and build and run military-style boot camps for nonviolent offenders. Boot camps allow States suffering from overcrowding problems to move nonviolent prisoners into cheaper space. Boot camps cost about one-third the price, per bed, as a conventional prison, and thereby free up space for the most violent offenders in conventional prisons.

Yet, another effort that is already underway is the drug court program. But before I move to that, let me tell you what this prison program in the crime law would look like after it goes through this reincarnation, were the President not to veto this.

The prison program in the crime law we passed last year was designed to

meet two goals: First, to help States increase and then use to a maximum advantage the supply of prison space they have available to them. The second purpose was to encourage States to adopt the kind of truth-in-sentencing system that has been instituted by the Federal Government, to which I referred about 15 minutes ago. Today, prison systems in 34 States are under court order for overcrowding, and because there are not enough prison cells, many States are keeping violent criminals behind bars for roughly only 46 percent of the time for which they have been sentenced.

Worse yet, 30,000 offenders, who each year are convicted of a violent crime, do not even see a single, solitary day in prison. That is, 30,000 convicted in State court systems of a violent crime do not see a single day in prison because the States either do not have the money or do not have the leadership or do not have the gumption to tell the taxpayers that if they want these tough laws, they have to build more prisons.

The 1994 crime law is helping States respond to that problem with a $9.7 billion grant program. Under the 1994 crime law, States can use the money to build and operate additional secure prison cells for violent criminals or for boot camp prisons for nonviolent offenders, thereby freeing up secured prison space for violent offenders.

Let me tell you about these boot camps. Today, there are 160,000 young, nonviolent minor offenders who are behind bars in costly prison cells. That just does not make any sense. They are nonviolent, they are first offenders primarily, and they are behind bars at more than what it costs per year to send your kid to Harvard or Yale.

What this does, the crime law encourages States to take them out of those systems if they choose, put them in boot camps where you string barbed wire, you have the equivalent of Quonset huts. Make them engage in military-style activities to occupy them. It does not hurt marines or trainees. Surely, it will not hurt them at about one-third the cost.

I am encouraged that the Republicans' prison proposal permits States to use the funds for boot camps. That is an important change, I might add, and I compliment them for that on the House bill. But the fact of the matter is, it is a big change.

One of the key problems in the Republican prison plan is it permits States only to build or expand prisons, leaving out the ability to spend the funds to operate the present system. The State of Florida, when we had this debate on the bill, had built new prisons. They are sitting there with not a prisoner in them because they do not have the money to operate the prisons. They needed them badly but did not have the budget to operate them. This just does not make sense.

When the 1994 prison provisions were written we heard from several States about these operating problems. A close look at the fine print in this bill reveals what I believe is one of the most troublesome aspects. While $617 million is appropriated for prison grants in the conference report, the Republican conferees raided $200 million of that fund to fund prisons in just seven or eight States.

Let me explain that. The bill directly funds $300 million to reimburse States for the cost of housing criminal aliens in State prisons. That was a provision included in the 1994 crime law. I support that goal.

On top of that $300 million in direct appropriations to reimburse States for incarcerating criminal aliens, language was slipped into the bill so that an additional $200 million was shifted from general prison grants for all States through the Criminal Alien Reimbursement Program. I assume that was a legacy of the Senator from Texas before he went to the Finance Committee. So that means a few States are going to get the money.

I point out to my colleagues if you are not from Arizona, Florida, Texas, Illinois, New York, New Jersey, California, or Michigan, funds that should have gone to building prisons in your States have been stolen in this conference report. I think this is outrageous.

I support the need to reimburse States for these costs, but in the 1994 crime law, we recognize that crime is plaguing all States, not just a few of the largest States in America.

I have a list here that I ask unanimous consent to have printed at this point, entitled ''Conference Report Prison Funding—How Does Your State Do?''

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

CONFERENCE REPORT PRISON FUNDING—HOW DOES YOUR STATE DO?

	1994 Crime Law	Conference	Win/Lose
Alabama	$5,671,000	(1)	
Alaska	1,495,000	0	−$1,495,000
Arizona	8,617,000	17,368,000	+8,751,000
Arkansas	2,954,000	[2]0	[2]0
California	94,034,000	181,300,000	+87,266,000
Colorado	3,822,000	0	+3,822,000
Connecticut	3,038,000	6,975,000	+3,937,000
Delaware	1,532,000	0	−1,532,000
D.C.	3,326,000	[2]0	[2]0
Florida	46,535,000	38,262,000	−8,303,000
Georgia	14,680,000	[2]0	[2]0
Hawaii	1,273,000	0	−1,273,000
Idaho	1,279,000	0	−1,279,000
Illinois	31,297,000	26,471,000	−5,456,000
Indiana	8,561,000	8,423,000	−138,000
Iowa	2,179,000	(1)	
Kansas	4,300,000	6,674,000	+2,374,000
Kentucky	3,422,000	0	−3,422,000
Louisiana	13,445,000	9,956,000	−3,499,000
Maine	1,050,000	0	−1,050,000
Maryland	8,175,000	0	−8,175,000
Massachusetts	8,004,000	0	−8,004,000
Michigan	11,958,000	15,764,00	+3,806,000
Minnesota	3,013,000	6,981,000	+3,968,000
Mississippi	3,996,000	6,593,000	+2,597,000
Missouri	11,616,000	9,478,000	−2,138,000
Montana	1,040,000	0	−1,040,000
Nebraska	2,329,000	[2]0	[2]0
Nevada	4,188,000	6,614,000	+2,426,000
New Hampshire	1,248,000	[2]0	[2]0
New Jersey	8,152,000	14,185,000	+6,033,000
New Mexico	3,050,000	[2]0	[2]0
New York	54,953,000	45,227,000	−9,726,000
North Carolina	13,892,000	10,310,000	−3,582,000
North Dakota	893,000	5,392,000	+4,499,000
Ohio	16,313,000	11,293,000	−5,020,000
Oklahoma	3,864,000	[2]0	[2]0
Oregon	5,046,000	0	−5,046,000
Pennsylvania	14,756,000	10,769,000	−3,987,000
Rhode Island	1,415,000	5,752,000	+4,337,000
South Carolina	11,150,000	9,209,000	−1,941,000
South Dakota	1,040,000	[2]0	[2]0
Tennessee	6,617,000	[2]0	[2]0
Texas	21,224,000	[2]0	[2]0
Utah	1,650,000	5,928,000	+4,278,000
Vermont	1,001,000	(1)	
Virginia	7,514,000	7,875,000	+361,000
Washington	8,312,000	[2]0	[2]0
West Virginia	1,382,000	[2]0	[2]0
Wisconsin	2,797,000	0	−2,797,000
Wyoming	1,191,000	[2]0	[2]0

[1] No data.

[2] State is ineligible for Conference ''Truth in Sentencing'' grants, sufficient data not available for determining eligibility under Conference ''general'' grants.

Source: State data compiled by National Institute of Corrections and Department of Justice.

Mr. BIDEN. Mr. President, let me point out to you, if you are in Alaska you will get $1.495 million less; if you are in Colorado, you get $3.822 million less; in Delaware, you get $1.532 million less; in Maine, you get $1.050 million less; in Maryland, $8 million less; in Massachusetts, $8 million less; Missouri, $2 million less—I am rounding these numbers down—in Montana, $1 million less. I did not think that was the deal.

There are more problems with what they did with prisons in this conference report. In the crime law, it permits all States to qualify for one or both pots of the prison money. There are two pots of prison money. There is 50 percent for general grants that essentially all States receive because there are no hard strings or conditions on these dollars, and 50 percent of the money is to go to States which meet the truth-in-sentencing standards we set out.

The Republican conference also splits prison dollars into two pots, but States are forced to choose either one or the other, even if they qualify for both. This is the second reason why so many States will get so many fewer prison dollars on a Republican conference report. It seems to me to be written by Speaker GINGRICH to favor only the biggest States.

There is a third problem that most Senators will be hearing about from the prison officials in their States. I know none of the Senators is likely to be listening to this. They are doing other things, including being in conferences and hearings themselves, but in addition to the Senators on the floor, warn your Senators and be prepared that if this becomes law, you will get a call, most of you, from your home State. You will have to answer them, ''Why did you cut the money for prisons in my State? Why did you do that?''

I strongly urge you to take a look at this little chart that I have just printed in the RECORD.

To illustrate the problem with these changes, conditions, let me review the situation from my home State. First of all, truth-in-sentencing grants: The conference report changes both the standard and the language so that despite the fact that Delaware, unlike all

but one other State in America, keeps its violent criminals behind bars for 90 percent of the time for which they are sentenced—unlike Pennsylvania or Maryland, my neighboring States, or New Jersey, it is one of the highest rates in the Nation, according to the Bureau of Justice Statistics—because Delaware State law only refers to a 75 percent floor, Delaware is not eligible for truth-in-sentencing grants under this little change.

Second, general grants: The conference changes the rules to require increased time served by State prisoners since 1993. Well, Delaware's truth-in-sentencing law came into effect in 1990. We have been doing the right thing since 1990. But, no, it gets changed. Delaware cannot increase the time served since 1993 since we already did it in 1990. You cannot get above 100 percent. That is just one illustration how my State and many others are going to be out in the cold.

It is one illustration out of the conference report that cuts prison dollars for a State. I am sure there are other explanations where other States will have their prison dollars slashed if this conference report were to become law.

My staff has prepared this for me, and the title of the next section is ''Why Does Utah Do So Well?'' The conference report includes a special exception, one that appears to help Utah and perhaps a few other States, in the truth-in-sentencing prisons.

Section 20104, subsection (a), subsection (3) permits only those States with indeterminate sentencing to meet the 85 percent truth-in-sentencing standard if they serve 85 percent of their time under the State's sentencing and release guidelines.

Translated, if you have indeterminate sentencing, you get the money. Well, far be it for me to criticize that. Some day I hope to be chairman of the committee again and I hope to take unfair advantage of the process for my State. I am not criticizing, but I am complementing my friend from Utah.

He does what a good chairman should do. He changed the law to benefit his State at the expense of other States. I understand that. I would do the same thing if I were in his position. It is legitimate. But I just point out that Utah has indeterminate sentencing.

Second, the term ''sentencing and release guidelines'' has some circular logic. The only way someone can get out of prison under an indeterminant sentencing law is either when they have served a maximum sentence or under some sort of release guideline. So this definition is a self-fulfilling prophecy. Prisoners have to serve 100 percent of the time they have to serve.

That is kind of fascinating, is it not? If it is indeterminate, you say at the end of this, they served all the time they were supposed to serve so now they served 100 percent of their time so now you qualify for that pot of money. I think it is really good. I mean, it is admirable. If I become chairman of the Judiciary Committee again, assuming I get reelected, which is certainly an assumption, and assuming the Democrats take back this place, I want to hire one of the staffers who gave this idea to Senator HATCH, because it is magnificent.

The only States in the Union that really do not keep their folks in prison are the ones with indeterminate sentences, but they are the ones who qualify to be the toughest because, by definition, you would have kept them in as long as they were supposed to be in because you never said how long they had to be in. So, then, all of a sudden, when you release them, they had been in all the time they were supposed to. That is brilliant, absolutely brilliant. But it does not have a darned thing to do with what was the intent of the law. This is a definition of a self-fulfilling prophecy.

The bottom line of all this is 34 States can expect to lose prison money under this conference report. Again, I have to admit, I admire the ingenuity of my friends. I might add, though, it is easier to do this—I wonder what would happen if we had to vote as if this were a crime bill. If this were a crime bill, you would have to defend that. You would have to defend it. You would have to stand up and say why that is a good idea, and I would beat you. I would beat you even on your side. I would even get Republicans to vote with me.

But you figured out a way to keep that from happening. You put it in an appropriations bill so we do not have to do that. We can avoid the messy stuff of legislating. We can avoid the messy process of having to stand up and vote on this stuff. Do you remember how many votes we had on prison funding when we had the crime bill up? It went on and on and on.

The reason I point this out again—I mean this sincerely—is not to criticize Senator HATCH. I think it is a great idea. I think if I were he—I wish I had thought of it. But I want to tell you, the bottom line is 34 States are going to get less money. If we voted on that, from my 23 years here, the calculus usually means 34 States beat the remainder. But, I say to the ranking member of the committee, these guys did it well. They did a good job. They really rode you. You did not have the votes. I know you fought like the devil on this one, but they did it well. This is really a masterful piece of work.

In the absence of my friend from South Carolina from the floor—I do not want to get him in trouble, but he is the guy primarily responsible for getting me elected, if anybody had helped me, in 1972. But I kind of have a growing resentment toward him. He did not tell me to get on the Appropriations Committee when I got here. I thought you legislated here. I thought the process was, you were to get on authorizing committees. If I wanted to change the criminal justice system, I thought I was supposed to get on the Judiciary Committee. I did that, and I became the senior Democrat on that committee—sometimes running it on the minority side, sometimes the majority side.

It took me all this time to figure it out, you steered me wrong, Boss. You did not send me the right way. I should have gone to appropriations, because anything I do in that committee—it took me 6 years to put this bill together. We fought it and fought it and fought it and fought it, and when you came up with harebrained ideas like indeterminate sentencing qualifies, I was able to whip you straight up and down. But now I do not even get a chance to do that.

So, I am at some point going to offer an amendment saying that the U.S. Senate should meet as a Committee of the Whole, and we should call ourselves the Appropriations Committee, and we all get a chance at this. I would like to get in on this.

Russell Long, Senator Long, with whom I served for a long time—not nearly as long as the Senator from South Carolina did—used to use that expression ''I ain't for no deal I'm not in on.'' It is obvious I am not in on this deal anymore. I authored the bill, but I am out of it. I do not even get to debate it in the usual form where you get to vote on it. If my friends are willing to have a freestanding amendment on this, we could ask unanimous consent to waive the rules to allow a vote on the prison funding piece. I would welcome that. In the interests of fairness, they might be willing to do that. What do you think? I know the Senator from Massachusetts would support me in that effort, I expect. Maybe we ought to do that. But I have a feeling we are not going to get to do that.

There is another effort that is already underway. That is that thing called the Drug Court Program. This is a long-overdue drug program to crack down on—let me give you the numbers—600,000 drug-abusing offenders who are on our streets today, subject to no random drug testing, no mandatory treatment, and no threat of punishment.

Let me translate that for you. Mr. President, 600,000 folks who were arrested—actually there were about 1.4 million or 1.6 million arrested in America—1.4 million. And here is what happened. There are a total of 2.7 million State offenders who are on probation. There are 1.4 million drug offenders on probation. There are 800,000 of that 1.4 million who are being tested and treated. And there are 600,000 convicted—convicted—convicted drug offenders; not arrested. These are people who either pled guilty or have been convicted in a court of law, who are on the street—no probation, no parole, no testing, no treatment, ''no nothin','' as my Aunt Gerty used to say, ''no nothin'.''

So we came up with an idea. We actually got it from a Republican judge in Delaware, and Dade County, FL. It is

called drug courts. Let me tell you what drug courts do. They capture those 600,000 folks and they say, ''Here is the deal. You either—you are subject to random drug testing. If you have a job, you have to keep a job. If you are in school, you have to stay in school. You have to show up for intensive probation. And if you do not do any of those things, you go to jail—probably one of the boot camps which we funded.''

But my Republican friends—who I think are getting soft on crime, if not soft in the head on this stuff—they decided we might as well let those 600,000 folks wander the streets, every one of whom is an accident waiting to happen. Every one is an accident waiting to happen.

Before they put drug courts in Dade County, FL, the rearrest rate for one-time drug offenders was 36 percent. After several years of these drug courts, the rearrest rate is down to 3 percent. These work and they work in my State.

But what is the wisdom here? It is better to be soft than tough? Let us do away with this program. The Justice Department has already funded efforts to help local officials plan 52 new drug courts, begin 5 new drug courts and expand 8 other drug courts including one in my home State, that a Republican court, a Republican judge, a Republican attorney general have put together.

Despite this concrete record of success, the conference report would eliminate the separately targeted $150 million Drug Court Program and require States to fund drug courts, if at all, out of the money that could be spent on hiring cops on the beat. In real terms, this could mean about 85,000 drug-abusing offenders will not be subject to drug testing and mandatory treatment.

The other provisions of the 1994 crime law that are not affected by this bill are also proving to be very effective in combating crime, such as provisions against sexual offenders, death penalty provisions, the Brady law, the criminal alien provisions.

The reason I say ''not affected,'' remember we had this debate before. My Republican friends decided what they were going to do is cut money for the violence against women legislation and do it by the appropriating process. Do it that way. Legislate it that way. And the distinguished Senator from South Carolina came along and said—which he always does, and I am grateful—''By the way, Joe, let me tell you what is coming.'' And through his leadership we sort of just stood up and said, ''Hey, look what they are doing.''

We didn't do anything special. They insisted they were going to make the cut. We were going to debate it. We hung on, hung on, hung on, and the very guy who suggested the cut—and I admire him, I truly do, Senator GRAMM of Texas—he ended up introducing the amendment to restore the money for the violence against women law. So it is not cut here. I guess my Republican friends have heard the call that they had better not fool around with that piece of it.

The reason I am taking so much time today knowing that this is going nowhere anyway—it is going to be defeated—is this is my attempt to play a small part in raising the same kind of call. The new call is OK. We finally got the Republicans to not fool with the violence against women law. They are not going to. They will not have the nerve to try to cut that again. They will not have the nerve to try to cut it again.

But guess what, folks? They are now going after your cops. The answer is going to be, look, we are not cutting anything. The total dollars are cut, but we are not cutting anything. We are just telling the States we are giving you a pot of money and you do with it what you want. So if you want to hire the cops, you can hire the cops.

Mr. KERRY. Will my colleague yield for a question?

Mr. BIDEN. Surely.

Mr. KERRY. As a preface to a couple of questions, I'd like to thank the Senator and ask to be completely associated with his comments—the extraordinary, astute, and accurate comments—that precede these questions.

I also would preface it by saying that there is nobody in the Senate who has worked harder to produce a real comprehensive, systemic response to crime than the Senator from Delaware.

But, is it not true—I ask the Senator having worked together with him on this question of police officers and cops on our streets—that today we have, I believe, one-tenth the effective strength of police officers in the streets that we had 30 years ago? Is that not true?

Mr. BIDEN. That is true. If I can expand 60 seconds on the answer, I say to my friend that 30 years ago for every crime committed, every felony committed, there were three cops. Today for every three crimes committed there is one cop. There used to be three cops for every felony committed. Now we have for every cop three felonies committed. Of the 20 largest States in the Nation, if you look at the last 10 years, the increase in their police force is about 1 percent. Even though the populations are growing, the crime wave is growing above that. The 30-to-10 number the Senator suggests I cannot swear is the number, but it is close.

Mr. KERRY. From 1971 to 1990, in the midst of this increase in crime wave, and in the midst of the diminution in the number of police officers, we increased the Federal spending on lawyers and public defenders by 200 percent, and we increased prison spending by 156 percent. But we only increased the spending on police officers by 12 percent.

I ask the Senator, is it not true that the effort to put 100,000 police directly into the streets of America—the least costly, the least administratively overburdened manner—was a direct response from police officers themselves, from police chiefs themselves, and from mayors all across this country who simply did not have the ability to respond to this crime wave?

Mr. BIDEN. I say to my friend that he is absolutely categorically correct. And there is one other piece of this. After years of hearings, extensive hearings on the issue of violent crime in America—I realize it does not mean much in the new process; you just do appropriations—but after years of hearings, there are only a few things that we know about crime. The Senator, as a former prosecutor, knows this better than the Senator from Delaware. If there is a cop on one corner, and there is not a cop on the other, it is much more likely that the crime will be committed where the cop is not. I mean it sounds bizarre. We do not know that much about criminal behavior except we know that where there are cops and where there is light there is less crime—prevention of crime; let alone the arrest and prosecution, prevention of crime.

So the purpose of the 100,000 cops and the purpose for the request from the cops was that they are outmanned, they are outgunned, and they are outwitted because of all the array of technology, the new and the different nature of crime in America. That is why we need more cops. That is why they asked for them.

Mr. KERRY. If I could further ask my friend a question, is it not also true that while some communities may decide they do not need nor want a cop, for that community that might make that decision, there are probably 10 or 15 or 20 or 100 other ones in the country that could use 2 or 3 or 4 cops but which cannot get them because even the 100,000 cops is not enough to do what we ought to be doing?

Mr. BIDEN. I answer my colleague by saying the following: Look at the applications that have come in. I will once again compliment the Attorney General. Find me a cop in your State or in the State of California, New Hampshire, or South Carolina representative of Senators on the floor, or Colorado, who calls the process burdensome; the one-page application, No. 1. No. 2, of the applications every single month there are more applications than there is money. They would probably be able to sustain 200,000 more cops. I am pulling that number out. I do not know for a fact. I know there are more applications than there is money.

Since my time is running out, I only have 3 minutes left, I am told, may I conclude rather than answer, on another question?

I would like to reiterate that in its breadth the 1984 crime law reflects the lessons that have been learned over the past decade as we studied crime and law enforcement, and have worked on passing this law. And in its approach,

as well as in its many specifics, the law was a result of bipartisan efforts. We should not retreat on this tough but smart crime package. It already is hard at work preventing violent crime across the country. We should not retreat on the 100,000 cops program that we insisted on just a few months ago.

Let me point out that the $30 billion crime trust fund that uses the savings from cutting 272,000 Federal bureaucrats—160,000 have already left—pays for every cop, for every prison cell, and for every shelter for a battered woman and child. That is provided for in this crime bill without adding to the deficit or requiring 1 red cent additional in taxes. That was the deal we made right here on the Senate floor 1 year ago.

Now my Republican colleagues are trying to block out what we did, and back out of the deal by refusing to write the checks for next year's funding of the crime law. The money is there in the trust fund.

I have tried today to outline my objections to the Republican retreat represented by this conference report on the key provisions of the anticrime law last year.

So I urge my colleagues to consider very carefully whether this is the right form, the right idea, to dismantle these vital parts of the already successful and highly popular crime bill.

In the end I suspect that the merits will speak for themselves, and the American people will decide whether it is a good idea to take this trust fund money and spend it on 100,000 cops and the other programs here, or reduce it and send it out in block grants. And $525 million in applications are out there as we speak. Already, as of November 16, the Justice Department has received applications for an additional 9,100 cops under the 100,000 cops program beyond the 26,000 that have already been granted.

This is concrete evidence that the 100,000 cops program is working, is necessary, is local, and is needed. The shift to a block grant is wrong for many reasons. The 9,100 additional police that are all ready to go and waiting for us only to finish this political debate, is the most important reason why to shift the block grant is the wrong thing to do. Let us not try to change horses in midstream. This program is working.

If my Republican friends need to be able to say they have a Republican crime bill so that they can meet their contract pledge, let them pass the antiterrorism bill that we passed. It is the Hatch-Biden bill. Let us call it the Hatch-Republican bill. Let that be your crime bill. You can go back to your Republican conservative friends and say, ''You have a crime bill''—in order to meet a pledge that no one signed on to to dismantle one of the few big Federal programs that is working, working well, working without additional bureaucracy, and to do the job.

Let me say in final conclusion, if you doubt what I am saying, I challenge you to go home and find out that for every new cop that this new bill has in fact funded so far, just ask the police chief, or the commissioner of police, for whom that cop works, to list the number of dollars that cop has made. Then go get the names of the people that police officer has collared, has arrested—the criminal who he gets who names the victims. And then you go ask those victims whether or not this crime law made any sense.

This all comes down to the little tiny things, and the little tiny things here are making sure there are fewer victims of crime, and that those victims are in fact getting their day if court, and that they find the bad guy. That is why we need more cops.

Mr. President, I rise in opposition to the Department of Justice appropriations in this conference report and the attempt by my Republican colleagues to rewrite anticrime legislation on an appropriations bill.

PROCEDURAL OBJECTIONS

It is, in my view, a terrible idea to rewrite crime policy—wiping out major programs the senate created only last year and replacing them with new programs without review or debate—on an appropriations bill. It is unnecessary and completely contrary to how the Senate has traditionally worked.

We all know the Republicans want to change the crime law now at work. They said so in their Contract With America. House Republicans passed a new bill.

Here, Senators DOLE and HATCH introduced their bill to change the 1994 crime law. They have every right to try to do so.

But they have not chosen to do so. Their bill has never been acted on by the Senate, or even had one hearing. Instead, what we now have with this conference report is an attempt to change the current law by lifting entire parts of the crime bill passed in the House and attaching them to this appropriations bill. That House crime bill has already been rejected by the Senate when we amended the appropriations bill to restore the 100,000 cops on the beat program a couple of months ago.

This blatant attempt to sidestep the usual deliberative process of this body is, I believe, a terrible way to make law.

This bill is, of course, dead. It will be vetoed because, among other reasons, it eliminates the commitment the President and Congress made to the American people to get 100,000 cops on the beat. And it will continue to be vetoed until my Republican colleagues get the message that there will be no new crime bill without the 100,000 cops on the beat program. The Senate has already rejected this bill without the 100,000 cops program and it should do so again.

OVERVIEW OF THE PROBLEMS WITH THE BILL

Notwithstanding that we'll be right back here doing this again in a few days, I'd like to list and then explain some of the major changes this conference report proposes.

First, as I've mentioned, it would eliminate the 100,000 cops program established 1 year ago in the crime law and maintained in the Senate appropriations bill.

The 100,000 cops on the beat program has already funded more than 25,000 new police officers across the country in its first year alone. And police departments across the Nation have already applied for more than one-half of a billion dollars in fiscal year 1996 to fund more than 9,000 new police. These pending applications are now threatened by this conference report.

In its place is a law enforcement block grant program that is written so broadly that the money could be spent on everything from prosecutors to probation officers to traffic lights or parking meters—and not a single new cop.

This block grant has never been authorized by the Senate.

Let's be clear on what is being done here. What this conference report does is take a crime bill that has been passed only by the House, whose funds have been authorized only by the House, whose block grant idea has already been rejected by the Senate, and incorporate it into the appropriations bill so it is passed and funded—all in one fell swoop.

I will speak more about the 100,000 cops program in a minute, but let me note that, in addition, the bill would completely eliminate or severely restrict other programs set up by the 1994 crime law—programs like: the drug court system, the rural drug enforcement grant program, the law enforcement scholarship program, the SCAMS Program fighting telemarketing fraud against senior citizens, and tried and tested programs that fight youth violence, for example, by putting boys and girls clubs in housing projects.

Under the 1994 crime law, these programs were targeted for separate funds in addition to the funds for the 100,000 cops program. But under the conference report, mayors would have only the amount of the block grant—out of which all efforts would have to be funded.

The result will be that proven crime-fighting programs that the Congress voted to support last year would be effectively eliminated, all without any consideration by the Judiciary Committee or the full Senate as to the wisdom of these changes. And all with the strong opposition of the Nation's law enforcement community.

Mr. President, if we are going to legislate by fiat like this, then we might as well do away with committees, with hearings, with subcommittee markups, with full committee markups, and with careful consideration of authorizing legislation.

We could simply do all the Senate's business on appropriations bills.

I, for one, happen to believe that's a terrible way to proceed and I believe

that's reason enough to oppose this bill. The American people are not well served when major policy changes are made under the time limits facing us on these appropriations bills.

If the Republicans want to change the crime bill, they have the right to try—but let's do it the right way and then let's vote on it. Wiping out major pieces of the most significant anticrime legislation ever passed by the Congress on an appropriations bill makes a mockery of our Senate process. The importance of the programs we are considering, not to mention the perception of our institution, demands better.

But, given that we are here, I will insist on a full opportunity to debate with my colleagues the merits of last year's crime law programs affected by this bill.

Before I do that, I first want to briefly point out that another Republican plan in this conference report is to drastically cut Federal law enforcement. This conference report cuts the FBI by $112 million below the President's request—so new FBI agents will not be hired; cuts the Drug Enforcement Agency by $5 million below the President's request; cuts interagency drug enforcement by $15 million below 1995 and $19 million below the President's request; and cuts Federal prosecutors by $13 million below the President's request.

Let me address these cuts to federal law enforcement. The president requested an increase of $337 million for FBI agents and other FBI activities—but the Republicans cut $112 million from that request.

We frequently hear claims in Congress of how much we support law enforcement.

But, as the saying goes, talk is cheap. Talk—without the commitment of dollars—is meaningless. The Republicans on the conference have failed to fund the President's request for Federal law enforcement, despite all the talk about being for law enforcement.

Let's look at these cuts to Federal law enforcement: the conference report cuts $5 million from the $54 million boost requested for Drug Enforcement Agency agents by the President.

Again, we hear a lot of talk about how we need to do more to fight illegal drugs, and there is much finger-pointing about how the administration should do more—but in the end it is the Congress that fails to fund the drug enforcement requested by the President.

In yet another important area, let's review what has happened in interagency drug enforcement. The organized crime and drug enforcement task forces combine the efforts of the FBI, Drug Enforcement Agency, U.S. Attorneys, Immigration and Naturalization Service, Marshals' Service, Customs Service, U.S. Coast Guard, and the Internal Revenue Service—all working together in 13 regional task forces to target and destroy major narcotics trafficking organizations.

The President requested $378 million for this program—but the Republican conference cut this amount by $19 million. This means that we will cut this important drug-fighting capability below the 1995 level.

In other words, we are not talking about less of an increase—we are talking about cutting a significant part of this program.

Let me also point out that the Republican conference report cuts the President's budget request for U.S. attorneys—our Federal prosecutors—by $13 million. The President requested an increase of $86 million to boost Federal prosecutors, but the conference report backed away from this commitment.

In short, this conference report cuts the President's request for Federal law enforcement. So our Federal effort against crime and drugs will be fought by—fewer FBI agents; fewer DEA agents; and fewer Federal prosecutors.

What is one to conclude from the efforts of the Republicans to gut the 100,000 cops on the beat program and severely reduce Federal law enforcement? Is it that tax cuts to a few are more important than protecting the safety of average Americans?

Now I'd like to return to the merits of the 1994 crime law.

THE 1994 CRIME LAW IS WORKING

The passage of the major $30 billion anticrime package last year capped a 6-year effort to launch a bold, comprehensive, and tough attack on violent crime and its roots in American communities.

And as we pass the 1-year mark, it is already clear that the major programs of the bill are working even beyond expectation.

Consider the 100,000 cops program. If this had been a typical grant program, the Federal Government would just now—at the end of the first fiscal year of funding—be preparing to issue the first awards.

The better part of a year would have been consumed drafting regulations and preparing application forms before money could finally be disbursed at the end of the year.

The implementation of the 1994 crime law stands in stark contrast to that typical scenario. Instead of requiring burdensome applications that often filled entire binders, one-page applications were developed. Instead of waiting until the end of the year to disburse the funds, the money was awarded in batches beginning only weeks after passage of the law.

As a result, we find ourselves at the end of the first year with nearly all the fiscal year's money out the door—all of the funds have already on their way to the States—and with more than 25,000 out of 100,000 cops already funded in every State in the Nation. In a word, the law is working.

In addition to the new police, the law's provisions combating violence against women are also working.

The first criminal has been tried and convicted under the new Federal violence against women statute, resulting in a life sentence for Christopher J. Bailey, who kidnaped and beat his wife nearly to death.

In addition—charges have already been filed in another case.

Every State has received a grant to increase police, prosecutors, and victim services to combat family violence.

Rape shield laws have been extended to protect more victims.

And women no longer have to pay for medical exams to prove they are raped—the victims of rape are finally being treated like the victims of any other crime.

These long overdue measures mean that women are now being protected—instead of further victimized—by the criminal justice system.

Another major accomplishment under the 1994 crime law is the military-style boot camp prisons: crime law dollars are already at work helping 27 States plan, build, and run military-style boot camp prisons for non-violent offenders.

Boot camp prisons allow States suffering from overcrowding problems to move non-violent prisoners into cheaper space—boot camps cost about one-third the price per bed than conventional prisons—thereby freeing up space for most violent offenders.

Yet another effort that is already underway is the drug court program—a long overdue program to finally crack down on the 600,000 drug-abusing offenders who are on our streets today, subject to no random drug testing, no mandatory treatment, and no threat of punishment.

The Justice Department has already funded efforts to help local officials plan 52 new drug courts, begin 5 new drug courts, and to expand 8 other drug court programs (including one in my home State of Delaware.)

Despite this concrete record of success, the conference report would eliminate the separately targeted $150 million drug court program and require states to fund drug courts, if at all, out of the money that could be spent on hiring cops on the beat. In real terms, this could mean that about 85,000 drug abusing offenders will not be subject to drug testing and mandatory treatment.

Other provisions of the 1994 Crime Law that are not affected by this bill are also proving to be very effective in combating crime, such as the provisions against sexual offenders, the death penalty provisions, the Brady Law, and the criminal alien provisions.

So, Mr. President, last year's crime bill has achieved an extraordinary measure of success during its first year in operation.

Yet, despite all of these accomplishments under the 1994 Crime Law, the anti-crime law is still under attack by the Republicans. Just as the entire scheme of anti-crime initiatives is taking hold, they would eliminate or dismantle many of the law's critical programs and reverse the progress that is being made.

So while it is important to note the success we are having in implementing the act, that is not enough.

We must also review at this point why the 1994 Crime Law represents the right approach to reducing the problem of violent crime in this country and why Republican proposals would prematurely divert us off the right track and unwisely point us in the wrong direction.

THE MERITS OF THE 1994 CRIME LAW

During the six-year period it took to enact this law, we undertook a major study and evaluation of the current system to pinpoint the weaknesses in anti-crime approaches. And for the first time, the Federal Government made a major commitment to help states and localities—where 95 percent of crime occurs and is prosecuted—redress the greatest shortcomings of our system.

In the course of the crime study, six key shortcomings of our current system became evident:

1. Most importantly, we do not have enough police out on the streets and in our neighborhoods.

2. We do not have enough prison cells for violent offenders —so they end up serving, on average nationwide, only 46 percent of their sentences.

3. We have not come up with an effective response to criminals who abuse drugs.

4. We do not treat family violence as serious crime.

5. Our police are outgunned by criminals.

6. And our nation's troubled children—who are growing up in a world of illegal drugs, guns, crime and violence—don't have safe places to go and lack positive activities to motivate them toward productive endeavors.

The comprehensive anti-crime bill passed by the congress last year was designed to address each of these key shortcomings.

This law is now providing an unprecedented infusion of Federal dollars to states and localities—to help them attack crime both at the back end—with more money for law enforcement and prisons; and at the front end—with more money for prevention programs that can help keep would-be criminals off the road to ruin in the first place.

The Crime Law reflects the primary lesson learned over the last decade as we studied crime and law enforcement—that all of the shortcomings in our system must be addressed together, that correcting one without the others is futile—because crime offers no single, easy answer.

I had hoped to spend this year watching over the smooth and speedy implementation of the law, while turning my focus to those substantial crime-related issues still before us—including a renewed fight against illegal drugs, and reform of our juvenile justice system as it struggles to deal with violent young criminals the current system was never designed to handle.

But instead of building upon the success the crime law already is having and moving forward to critical new challenges, the Congress of the United States is in full retreat. The House has already dismantled the crime law, and now the Senate will decide whether it will follow suit.

This premature about-face after finally putting in place the most comprehensive and carefully crafted set of anti-crime programs in our history is not only foolish but irresponsible.

We owe it to the American people to follow through with the measures we promised them and which they demanded for the past several years.

Let me address the merits of these programs.

THE 100,000 POLICE PROGRAM

Let me turn first to the central provision of the new law—the 100,000 cops on the beat program that I will fight with all my might to preserve.

I do not know a single responsible police leader, academic expert, or public official who does not agree that putting more police officers on our streets and in our neighborhoods is the best way to fight crime.

Community policing enables police to fight crime on two fronts at once—they are better positioned to respond and apprehend suspects when crime occurs, but even more importantly, they are also better positioned to keep crime from occurring in the first place.

I've seen this work in my home State of Delaware, where community policing in Wilmington takes the form of foot patrols aimed at breaking up the street-level drug dealing that had turned one Wilmington neighborhood into a crime zone.

These efforts successfully put a lid on drug activity, without displacing it to other parts of the city. In practice, community policing takes many forms, but regardless of the needs of particular communities, the reports from the field are the same—it works.

The 1994 crime law targets $8.8 billion for states and localities to train and hire 100,000 new community police officers over 6 years.

Now, we all remember the criticism last year of the 100,000 police program. The cops program won't work, Republicans in Congress said. They got Charlton Heston to say in national television ads that it would never happen, that we would never see more than 20,000 cops.

Well ''Moses'' could not have been more wrong. We already have 25,000 new local police officers on the streets of America—after only 1 year under the new law. And because of the way we've set it up—with a match requirement and spreading out the cost over a period of years—the money will continue to work, keeping these cops on the beat and preventing crime in our communities far into the future.

But that progress will come to a screeching halt if my Republicans colleagues get their way.

They have proposed and incorporated into this conference report a new law enforcement block grant—which has loopholes so big that it would permit all the money to be spent without hiring a single new police officer. Not one.

Read their proposal. Money is sent not to police but to mayors, and the money may be used not only for cops but also for other types of law enforcement officers or for many other purposes or initiatives. Moreover, the money could be used for other vaguely defined purposes such as ''equipment, technology and other material.''

Let me repeat—under the Republican proposal the dollars can be diverted to prosecutors, courts, or other law enforcement officials.

These may be worthy causes, but nothing in the Republican bill requires that even $1 be used to hire a single new police officer—and the one thing we know is that more community police officers means less crime.

Look at the language of this bill. Not even one new cop is required. All it says is that ''recipients are encouraged to use these funds to hire additional law enforcement officers.'' That's it. Encouraged.

Mr. President, American communities don't need our encouragement. They need more police.

We should not encourage the States to keep the commitment this Congress made to the American people. We should keep our word.

What this conference report does is take money that has been designated for cops on the beat and allows it to be used for a whole host of disparate purposes. That means only one thing for sure—the money will be wasted on things the Federal Government should not be funding. The great benefit of the 1994 crime law was that it gave States enough choice but also gave them enough direction. That direction is what differentiated this crime law from the failed crime laws of the past, yet that direction is precisely what this block grant throws out the window.

That is the major flaw of the Republican block grant.

I believe that the single most important thing our communities need when it comes to fighting crime is more police, and the current law guarantees our money will be used for just that purpose.

We should not abandon it 1 year after enacting it. We must save the 100,000 cops program to ensure that the money for police is used only for police.

PRISON GRANTS

The second major shortcoming in the current system is prison space, and the prison program in the crime law we passed last year was designed to meet two goals:

First, to help States increase—and then use to maximum advantage—their supply of prison space; and second, to encourage States to adopt the kind of truth-in-sentencing system that has been instituted at the Federal level.

Today, prison systems in 34 States are under court order due to overcrowding.

Because there are not enough prison cells, many States are keeping violent criminals behind bars for only about half their sentences—46 percent is the nationwide average.

Worse yet, 30,000 offenders who, each year, are convicted of a violent crime are not even sentenced to prison.

The 1994 crime law is helping States respond to this problem with a $9.7 billion grant program.

Under the 1994 law, States can use the money to build and operate additional secure prison cells for violent criminals—or for boot camp prisons for non-violent offenders, thereby freeing up secure prison spaces for violent criminals.

Let me tell you about these boot camps. Today, 160,000 young, nonviolent, minor offenders are behind bars in costly prison cells. That just does not make sense.

So the law encourages States to make the most efficient use of existing prison cells—by putting violent offenders in the most expensive cells, and housing nonviolent, minor offenders at one-third the cost of conventional prison space in military-style boot camps.

I am encouraged that the Republicans' prison proposal permits States to use this funding for boot camp prisons—that is an important change from the house-passed appropriations bill.

KEY PROBLEMS WITH CONFERENCE PRISON PLAN

One key problem with the Republican prison plan is that the plan permits States only to build or expand prisons—leaving out the ability to spend these funds to operate prisons.

This just does not make sense, when the 1994 prison provisions were written, we heard several States had already built prisons, but could not open these prisons because of a lack of operating funds.

A close look at the fine print of this bill reveals what I believe is one of its most troubling aspects. While $617 million is appropriated for the prison grants in the conference report, the Republican conferees raided $200 million of that to fund prisons in just 7 or 8 States.

Let me explain—the bill directly funds $300 million to reimburse States for the costs of housing criminal aliens in State prisons. This was a provision included in the 1994 crime law, and I support this goal. But, on top of that $300 million in direct appropriations to reimburse States for incarcerating criminal aliens, language was slipped into the bill so that an additional $200 million was shifted from the general prison grants for all states to the criminal alien reimbursement program.

So I point out to my colleagues—if you are not from Arizona, Florida, Texas, Illinois, New York, New Jersey, California, or Michigan—funds that should have gone to building prisons in your State have been stolen by this conference report.

This is outrageous, I support the need to reimburse States for these costs, but the 1994 crime law recognized that crime is plaguing all states not just a few of our Nation's largest border States.

FIGHTING DRUG RELATED CRIME

The third major shortcoming of our current system is the failure to limit drug-related crime.

The new law provides money for specialized drug courts to target low-level drug offenders who are out on the streets breaking into cars and stealing to support their habits.

In most communities, these offenders are now largely ignored by our system. They do not go to prison and they are not required to comply with drug testing or get treatment.

Most are simply sent right back out on the streets on largely unsupervised probation—and they go right back to the cycle of drug use and crime to support their drug use.

The heart of the problem is that, just like the prison populations, the probation and parole populations have exploded. More than 3.5 million offenders—half of them drug addicts—are now living in their communities under the nominal supervision of courts or corrections officers.

According to the Justice Department, of the roughly 1.4 million drug-abusing offenders on probation, only 800,000 are subject to some drug testing or drug treatment. The remaining 600,000 drug-addicted offenders are on our Nation's streets each day, unsupervised, untested, with no fear of punishment. They are accidents waiting to happen.

Many of these probationers are high-rate offenders. Hard-core addicts are estimated to commit up to 200 crimes a year to support their habits.

As the number of probation officers has not kept pace with the growth in the probation population, probation caseloads now average 118 offenders.

In some areas, caseloads can exceed 200.

With so many offenders, officers are able to conduct only minimal supervision at best—perhaps 15 minutes a week.

We know who these people are. Judges and probation officers have their names and addresses. So why do we ignore them?

Drug courts are designed to take these offenders and their crimes seriously—offenders face random drug testing and mandatory treatment. And, if they slip back into drugs—they go to jail.

Yet the Republican proposal totally eliminates drug courts. The bill wipes out all funding. We must preserve the necessary money to fund the drug courts.

PREVENTION PROGRAMS

I turn now to an issue that has been the subject of more misinformation and outright mischaracterization than perhaps any other in the crime debate—whether we should work to prevent crime before it happens, instead of waiting until after the shots are fired, until after our children become addicted to drugs, until after more Americans' lives are ruined.

The anticrime law enacted last year answered that question unapologetically.

In addition to fighting crime, the law made a commitment to preventing crime—a commitment supported by virtually every criminologist, every legal scholar, every sociologist, every psychologist, every medical authority, and simple common sense.

Those who study this issue agree that breaking the cycle of violence and crime requires an investment in the lives of our children—with support and guidance to help them reject the violence and anarchy of the streets in favor of taking positive responsibility for their lives.

Prevention is also what cops want—what virtually everyone in law enforcement wants.

Every police officer I have talked to, every prosecutor, every prison warden, every probation officer, says the same thing—we can't do it alone. And we can't do it all after the fact.

And listen to local officials—the very people the Republicans say they want to give greater voice: Republican mayors Giuliani of New York and Riordan of Los Angeles say this: [B]y funding proven prevention programs for young people, the crime bill offers hope—hope that in the future we can reduce the need for so many police officers and jails.

Listen to Paul Helmke, the Republican mayor of Fort Wayne, IN: [I]t's a lot less expensive to do things on the prevention side than on the police side.

This unity among law enforcement was the force that drove the prevention programs into the 1994 crime law and into the appropriations bill as passed by the Senate just a few months ago. We need to give these programs a chance. If after a few years the prevention programs in the anti-crime law do not work, I will be first in line to change it.

The 1994 crime law sets aside $5.4 billion to give States money—and flexibility—to implement many types of crime prevention programs that have proven track records of success.

As part of that money, $30 million is allocated to fund crime prevention programs such as TRIAD and boys and girls clubs and other local initiatives.

The TRIAD programs are the joint efforts of sheriffs, police chiefs and senior citizens—practical cooperation that helps combat crime against our elderly citizens.

In hundreds of public housing projects across the country, boys and girls clubs give kids a safe place to hang out after school—a place with positive activities and positive role models.

A recent, independent evaluation has reported that housing projects with clubs experience 13 percent fewer juvenile crimes, 22 percent less drug activity, and 25 percent less crack use, than do projects without clubs.

Other local prevention programs are having great success as well. For example, in honolulu, professionals identify families at risk for neglect or abuse when children are born and then visit their homes regularly over several years to help parents learn to care for their children. In Houston, TX, a core of professionals provides one-on-one counseling, mentoring, tutoring, job training and crisis-intervention services to students at risk of dropping out.

Although many communities are putting their best foot forward, the need and demand for prevention programs far outpace the supply.

And yet the Republicans have eliminated the separately targeted funding for these programs and thrown them into the block grant—a move some charge is cold-hearted and mean. But I say it's just plain dumb.

The prevention money in the crime law is an investment in our future that we simply cannot afford not to make—not when we are spending $25 billion to lock people up every year.

And there are issues here even more important than money, because the commitment that we make today will define us as a nation tomorrow.

Prisons, though essential, are a testament to failure: they are the right place for people gone wrong.

On the other hand, when a life about to go wrong is set back on the right track—that is a testament to hope.

We build hope by showing children that they matter, by challenging disaffection with affection and respect, and by contrasting the dead-end of violence with the opportunity for a constructive life.

That's why we need to restore the separate funding for these prevention programs, in addition to the funding for the 100,000 cops program.

CONCLUSION

In concluding, I want to reiterate that in its breadth, the 1994 anticrime law reflects the lessons learned over the last decade as we studied crime and law enforcement and worked on passing this law.

And in its approach, as well as in many specifics, the law was the result of bi-partisan efforts.

We should not retreat now on this tough but smart crime package that already is hard at work in preventing violent crime across the country. And we should not retreat on the 100,000 cops program that we insisted on just a few months ago.

Let me also point out that the $30 billion crime law trust fund that uses the savings from cutting 272,000 Federal bureaucrats (160,000 have already left) pays for every cop, every prison cell, every shelter for a battered woman and her children that is provided for in the crime law—without adding to the deficit or requiring new taxes.

That was the deal we made right here on the Senate floor 1 year ago. Yet now my Republican colleagues are trying to back out on the deal by refusing to write the checks for next year's funding of the crime law.

I have tried today to outline my objections to the Republicans retreat—in this conference report—on the key provisions of the anticrime law enacted last year.

So I urge my colleagues to consider very carefully whether this is the right forum and the right idea to dismantle these vital parts of the already successful and highly popular crime law.

In the end, I suspect that the merits will speak for themselves and the american people will decide whether it is a good idea to debilitate the Crime Law just as it is showing clear signs of success.

This program is a very bad idea. I expect we are going to get to debate this again. So in light of that, and in light of the fact I have no more time—I am sorry. My staff is now fired. They gave me a note saying before I had 3 minutes, and now I see it is 30 minutes. But I will yield the floor and reserve the remainder of my time.

COPS ON THE BEAT/COMMUNITY ORIENTED POLICING PROGRAM

Mr. HOLLINGS. Mr. President, this conference report proposes to terminate the successful Cops on the Beat or the Community Oriented Policing [COPS] Program. This is one of the craziest things I've seen since coming to the Senate. I had always thought that getting more police on the streets was a rock solid conservative, and for that matter, a bipartisan value. If there was one thing I thought we all could agree on, it was our belief in local law enforcement.

This attack on this police program comes as something of a surprise to me. I've looked back at the debate on last year's crime bill, and what I saw was statement after statement by Republicans attacking the authorization of crime prevention programs—not hiring police. As I recall, the only major argument against the Cops on the Beat Program was that some Republicans didn't think we could succeed in getting 100,000 additional police out on the streets in America. Yet in statement after statement, they said they supported more police.

Now, the tables have turned. The majority party is against police and the Cops on the Beat Program because we are for it. That is absurd. After 29 years in the Senate, I have finally cracked the code—as they say in the Pentagon. In the current Senate, if Democrats support a program, then the majority feels compelled to do the opposite. And they will do the opposite even when they are cutting off their noses in spite of their faces, as in the case before us.

The lesson that I guess we as Democrats need to learn is that we apparently must do the opposite of what we think is right. Then the Republicans will do the right thing. So tomorrow, I guess I should call the President of the United States to suggest that he come out with both barrels blazing in a call to eliminate the Commerce Department. If he did, I have no doubt that the majority leader, the very next day, or one of the other Republican Presidential candidates would be holding a press conference attacking the President's position with an argument that it would be ludicrous to disband the only Cabinet Department that serves as an advocate for American industry.

BLOCK GRANTS

Mr. President, when I look at this bill, I think it is a little block grant crazy. It kills the Cops on the Beat Program and says make it a block grant.

I find this faddish obsession with block grants to be most interesting. It was just a little over 2 years ago that President Clinton submitted a $16 billion economic stimulus program. And I recall that it was the casualty of the 103d Congress' first filibuster in which Republican Member after Member attacked it for including block grants. Each speaker talked about the types of questionable projects that could be allowable under block grants. They talked about pork-barrel swimming pools, parking garages and canoeing facilities. Of course, none of those things was actually in the bill. But, the flexibility and discretion provided by block grants enabled Governors and mayors to fund such projects. And so, my Republican colleagues stood for days on the floor and attacked the allowable uses of block grants. Predictably, there was a public outcry. In turn, they defeated that bill, not for what was in it, but because of the basic concept of block grants.

Now, here we are with the 1996 Justice appropriations bill and we have a successful and effective program to hire and train tens of thousands of police officers and get them on the beat. And what is the opposition proposing? To kill the program and create a block grant that will send checks for Governors. Unbelievable.

REMEMBER THE LEAA?

Now, Mr. President, this block grant idea is deja vu. Those of us in the Chamber that have been here awhile—those of us with an institutional memory—know that this notion of police block grants is nothing new. Back in the 1970's, we tried a block grant program for law enforcement and it was a miserable failure. Our experience with the Law Enforcement Assistance Administration, or LEAA, is worth reviewing.

LEAA was ''sooey pig.'' It was a boondoggle. It was all those things that my Republican colleagues complained about in 1993. Communities across the Nation used their LEAA block grant funds to buy tanks, cars for mayors and even encyclopedias. LEAA funds were used to hire consultants who produced numerous plans that only were shelved to rest in peace. The LEAA was the Beltway Bandit's best friend. It was the same old story—Federal money was used to fund projects for which Governors or city councils were unwilling to use locally-raised funds.

Quite simply, LEAA was a waste of taxpayer funds. By the time President Carter came to town, he had seen LEAA firsthand as a Governor in Georgia. And he knew of the program's Federal largesse and wastefulness. So he rightfully told Congress to kill the program.

A good summary of our experience with the LEAA is in the 1982 edition of the Congressional Quarterly:

Fourteen years after its creation, the Law Enforcement Assistance Administration (LEAA) went quietly out of business April 15, a demise ordered by Attorney General William French Smith but preordained in the final years of the Carter Administration.

In its somewhat troubled life, the grant agency dispensed nearly $8 billion to local law enforcement agencies for programs such as improved police equipment, shelters for homeless youth and special local task forces to prosecute ''career criminals.'' In recent years, however, LEAA was criticized for requiring too much red tape in its grant program and for wasting money on Dick Tracy-type gadgetry.

COPS ON THE BEAT

Mr. President, for $8 billion we got nothing from these LEAA block grant programs. Compare that with the Cops on the Beat Program. We have spent $1.358 billion in 2 years. Already, we have gotten more than 26,000 additional police officers funded to go on the beat in small towns and cities throughout America.

I don't believe that I have ever seen a more effective program with less redtape. And if you want to hear about the success of this program, just talk with local sheriffs and police chiefs across the country.

In South Carolina, the COPS program has funded more than 255 extra police to patrol communities. And it's working. Members of my staff have traveled extensively across South Carolina to meet with local police to find out about the program. As far as I know, there has not been a single negative comment about the program. In fact, most chiefs and sheriffs were extremely supportive of the program. Here are some typical comments we got about the program:

''This was the easiest Federal program I've ever seen,'' one chief said.

''There is no way we could have hired an additional officer without this grant,'' said another.

''The application form—just one page—was so simple. There is no way it could have come from Washington.''

Finally, listen to what was said by the chief of police of Yemassee, a small lowcountry town in Beaufort and Hampton counties that is a few miles from Hilton Head Island. Administrators with the COPS program dealt directly with the Yemassee Police Department and expeditiously provided funding. The department was able to hire one additional officer, an ex-marine who recently left Parris Island. Jack Hagy, Yemassee's chief, told my staff that it is the first time in his career that the Federal Government ever did anything for Yemassee. The entire town is enthused. In a small town like Yemassee, one extra police officer has a tremendous impact.

Quite simply, in South Carolina towns like Yemassee, Abbeville, Calhoun Falls, McCormick, and Mullins, and in larger cities like Charleston, Greenville, and Columbia, the COPS program has made a difference. Across the Nation, the successful addition of 26,000 more officers in just 2 years shows that we have a winner with the COPS Program. For once, Congress and the Administration got one right.

Let's take a look at why. The COPS program is focused. It has measurable goals. It is all teeth and no fat. It's administrative costs are less than 1 percent. Compare that to the block grant proposal, which has administrative costs at 2.5 percent. No other federal program can match the COPS program's efficiency.

In fact, part of the COPS program is specifically targeted to help smaller communities like Yemassee. This part, called COPS FAST, has no redtape. Instead, all that is required is a one-page application.

Also, the COPS program has accountability. It's no giveaway. It requires a shared commitment and responsibility at the local level. Police and sheriffs' departments have to make a local financial commitment to be involved. They have to put up 25 percent in matching funds to participate.

Furthermore, the COPS program has cut administrative overhead with a customer response center, personalized grant officers, and simplified procedures. The Justice Department is getting out funds to small communities within two months of application. And there are no middlemen. The program is fully competitive and non-partisan.

Finally, the COPS program has been working with the Defense Department to initiate a ''Troops to Cops'' program to encourage the hiring of recently-separated members of the military, such as our friend in Yemassee.

THE WAR ON CRIME

Mr. President, the conference report before us adds funds to hire thousands of additional Border Patrol agents, FBI agents, federal prison guards, INS inspectors and DEA agents. These are the people that my sheriffs and police chiefs in South Carolina call ''the Feds.'' Now, maybe we could use more Feds. But, if we think that only they will really make a dent in the war on crime in America, we are fooling ourselves.

That war is going on in every city and town across America. Crime generally is a local, not a federal, occurrence. What Americans fear most today is violent crime in their communities—murder, rape and robbery. Generally, those crimes are dealt with by local police, not the Feds. This COPS program is the best and most effective weapon that has been developed so far to assist state and local law enforcement officers in combatting these crimes. Unlike block granting, the COPS program does it right.

Some have said that we in Washington shouldn't decide if local governments need more police. They claim that we should just give them a check, or as this conference agreement proposes, give checks to governors and mayors so that they have the ''flexibility'' to allow them to buy other things or establish prevention programs.

Well, Mr. President, the last time I checked, 10 out of 10 people who call the police for help—are calling for a cop. They don't want to hear about a check or flexibility. They don't want to know about a tank or high-falooting, Dick Tracy gadgets. They want a police officer to come to their assistance.

There is no higher need than putting foot soldiers out on the front lines to battle crime. If there are other law enforcement infrastructure needs, there are enough other existing federal programs, such as the popular Byrne grant program, to meet those local needs.

Results speak for themselves. Some 26,000 police are out in local communities that weren't out there just two years ago. If we stick with the COPS program, that number will be more than 40,000 in just another year.

Maybe that's the problem. Maybe my Republican colleagues want so desparately to kill the COPS program simply because it is so effective.

Mr. President, I have received numerous letters from police and law enforcement groups across this nation that are pleading that we restore funding for the COPS program. Let me just quote from a few here:

The Fraternal Order of Police (President Gilbert Gallegos):

Since its inception in September 1994, the COPS program has provided 26,000 state and local officers. These men and women, and those who join them as the COPS program continues to meet its goals, will play a vital role in the effort to make our streets safe for law-abiding citizens. . .. On behalf of the 270,000 rank and file officers who make up the FOP, you have our thanks and support.

National Association of Police Organizations—Robert Scully, Executive Director:

The National Association of Police Organizations (NAPO) representing over 185,000 rank and file police officers and 3,500 police associations . . . has been behind the COPS program since day one. We oppose altering this successful program to a block grant approach because we know that unless the monies are given directly to law enforcement agencies to hire more police officers, the funds will be diverted by local bureaucrats with their own agendas. . . . (COPS) is the single most effective crime program working to make our streets safer and law enforcement sees no reason to change it.

Police Executive Research Forum—Chuck Wexler, Executive Director:

Police Executive Research Forum members have spoken out strongly against the proposed Senate block grant program which, under this appropriations package, would replace the COPS program. The replacement of the COPS program with block grants would hinder PERF members' efforts to improve public safety and address community problems. . . . this issue is of ideal importance to

the law enforcement community and the entire nation, it is imperative that you and your colleagues understand and consider our concerns.

National Sheriffs' Association—Charles Meeks, Executive Director:

On behalf of the National Sheriffs' Association, I am writing in support of your amendment to the FY96 Commerce, Justice, State Appropriations bill to continue the COPS program. Because of the COPS program, over half of the nation's sheriffs have hired over 1,300 deputies moving toward increased law enforcement presence in our counties. This program of police hiring, in conjunction with community policing, will go a long way in helping to reduce crime in our counties.

The Law Enforcement Steering Committee—James Rhinebarger, Chairman:

The elimination of the COPS program would hinder our efforts and the progress made in community policing, and would ultimately prove detrimental to the nation's public safety. . . . This is an issue of vital importance to the law enforcement community and the entire nation.

AN ATTORNEY GENERAL WHO'S BEEN THERE

Mr. President, I have served with quite a few chief law enforcement officers since I came here in 1966. There are a lot of impressive names on that list—Ramsey Clark, Griffin Bell, John Mitchell, Elliot Richardson, Ben Civiletti, William French Smith, Dick Thornburgh, and Bill Barr. But, I have to say that I have never seen a better Attorney General than Janet Reno. She comes from local law enforcement and is from an area that has its share of crime, Dade County, FL.

With Attorney General Reno, what you see is what you get. She is a nonsense leader who understands accountability. She understands firsthand what is needed to combat crime.

This Cops on the Beat Program is her program. During a speech last year, she summed up why we need the COPS Program and why it is far and away the most important component to last year's crime bill. In addressing police groups in October of last year, she said:

The truth is, criminals do not stand in awe of a piece of paper or a bill or an Act. They look at results. Violence in this country does not magically recede because we have a piece of paper that says it should. Violence in this country recedes and is reduced because of efforts of officers on the front lines making a difference in their community, . . . and of officers getting the resources they need to do the job.

CONCLUSION

Mr. President, at this point we cannot really change what the Republican leadership has chosen to do to the COPS Program in this conference agreement. This agreement is in the nature of a substitute, and the COPS Program cannot be amended or voted upon separately. I, for one, do not believe that we should be rewriting the 1994 crime bill in this conference agreement.

As I stated earlier, this conference report is going to be vetoed. Make no mistake about that. It is my hope that we can move expeditiously on to round two and develop a bill that can become law. And, as part of that process, I hope that my Republican colleagues will agree to restore funding for the Community Policing Program.

Far too many issues become partisan this year. This is the craziest session of Congress that I have seen. Our support for police and sheriffs has always been bipartisan. Let's not change that. I hope that my Republican colleagues will listen to their local law enforcement officers, that they will support our men and women on the front lines, and that they will join me in supporting the Cops on the Beat Program when this Commerce, Justice and State bill comes back to the Senate.

Mr. GREGG. Mr. President, I yield 5 minutes to the chairman of the Appropriations Committee, Senator HATFIELD.

Mr. HATFIELD. Mr. President, I rise to support this conference report and consider it a balanced approach in meeting the funding needs of the agencies and departments contained in the bill, and considering it within the context, of course, of the parameters of the budget resolution.

Senator GREGG has done an excellent job picking up on the difficult task of bringing this bill through conference. I might just remind our colleagues that Senator GREGG came into this picture sort of like a little after halftime in the game to start quarterbacking this particular bill. I think he and his staff deserve a lot of credit for the product that is before the Senate today.

I also want to compliment Senator HOLLINGS for his dedication to this bill and its programs.

This has not been an easy year for any of us here on this committee or within the Senate, but I think it has been made easier by the fine leadership of this subcommittee. And I might comment at this time that Senator HOLLINGS and his staff have served with distinction on this subcommittee for almost a quarter of a century. His knowledge and expertise was a critical factor in framing the bill and bringing it to this point in the process.

As you remember, the budget resolution passed by both the House and Senate called for the elimination of the Department of Commerce. I voted for the budget resolution and continue to support its goal of a balanced budget. This conference report does not eliminate the Department of Commerce. It does cut funding Departmentwise by 14.5 percent. But it does nothing close to eliminating this Department.

I should like to sort of make a sidebar comment here, which is that it is a bit ironic that the Republican Party seems to be the leading proponent of abolishing the Department of Commerce, with its headquarters being named the Herbert Hoover Department of Commerce Building, because probably the greatest Secretary of Commerce of all time, the man who really built the Department, was Secretary Herbert Hoover under the Harding-Coolidge administrations, and that Department never had a stronger leader, nor did it ever have a more important function in our Government.

Having Senator HOLLINGS in the Chamber at this time, having served with Mr. Hoover on the Commission for reorganizing the executive branch of Government, I remind my colleagues, in the wisdom of his youth, Senator HOLLINGS was a Republican, a young Republican, and a great admirer of Mr. Hoover, as am I. And it is, as I say, a little ironic that he helped, along with others of this body, to help create a name for that Department, and there was only one name to ever consider, and that was Herbert Hoover.

The chairman of the Foreign Relations Committee, Senator HELMS, voiced his frustration this morning about the pace of authorizing legislation. This is a serious problem because the budget resolution, in our efforts to balance the budget, loses a lot of its teeth in the absence of necessary authorizing legislation needed to enact the cuts in domestic discretionary spending contained in the resolution.

We are in a situation, Mr. President, as members of the Appropriations Committee, where we are getting ''Hail Columbia'' from all sides in this particular dilemma that we face in this Congress. This has been the case for many years, because we do appropriate funds to hundreds of programs that lack authorization, expired or otherwise. We appropriate funds to programs and departments the Senate has voted to eliminate.

As the President and the Congress continue to negotiate a road map to a 7-year balanced budget, our trip must include stops through the authorizing committees. The Appropriations Committee cannot shoulder the whole burden in reshaping, redesigning and eliminating programs and departments without guidance from the relevant authorizing committees of jurisdiction.

This conference report includes critical funding for ongoing scientific research being conducted by the National Oceanic and Atmospheric Administration. While I would have preferred more funding for the NOAA operations, research and facilities, I am pleased that the Agency is very close to a freeze, at the level provided in 1995.

For the Department of State, the operations accounts, including salaries and expenses, have been funded at a level adequate to address the many pressing demands of our Foreign Service officers. It may not mean for the programs we have committed to, and particularly peacekeeping activities, we are really underfunded.

The conference report provides $348.5 million for the Economic Development Administration. This is a slight decrease from the 1995 level and would allow the EDA to continue their worthy efforts.

Also, on the issue of the Legal Services Corporation, I supported Senator

DOMENICI and worked with him in conference to get the funding at a higher level.

While we ended up at the House level of $278 million, this important issue deserves further consideration in the second round after the expected veto of this bill.

Negotiations are ongoing with the administration on this bill. This morning, we received a letter from the Office of Management and Budget which states that the President would veto this appropriations bill. I am hopeful that we can reach an accommodation with the administration on this bill and the other six appropriations bills that remain.

Again, I thank Senators GREGG and HOLLINGS and compliment the staff for their hard work.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HOLLINGS. Mr. President, let me thank the distinguished chairman of our committee. He and I have been in harness together since 1958 when he was elected the Governor of Oregon and I the Governor of South Carolina, and you get saddened when you see all your good friends announce that they are leaving, and particularly this friend here because he has been absolutely fearless, has Senator HATFIELD.

It has just been a thrill to watch him at the gubernatorial level and then at the national level, a man of his own mind, absolutely ethical, of the highest integrity and most of all dedicated—I think I am dedicated to peace, but there is no doubt that some would say I would rather start a war than stop it—but no doubt about the Senator from Oregon, he wants to stop all wars. And he has really made history in that regard. That is why, as warlike and as contentious as I can be, I am trying to look with favor on the present proposition relative to Bosnia.

But thanks should go to the distinguished chairman of our Appropriations Committee for his leadership. We had an awfully difficult time getting the bill to Senator GREGG for his leadership. He saved that bill two times when we were not going to have a bill. So I am particularly grateful for his overcomplimentary remarks about me.

Incidentally, I was at the time, in 1953 and 1954, a Democrat. I was trying to start up as a Republican, but the late Senator Burnet Maybank grabbed me and said, ''What's the matter with you, boy?'' I said, ''Well, I wanted to run here for the legislature.'' He said, ''You've got to run as a Democrat.'' I said, ''Yes, sir.''

Mr. HATFIELD. Easy composure.

Mr. HOLLINGS. That was easy composure. I thank the Senator.

Mr. President, I yield to the distinguished Senator from Massachusetts 10 minutes.

Mr. KERRY. I thank the Senator.

Mr. HOLLINGS. Mr. President, I understand 20 minutes were reserved for the Senator from Arkansas which have been yielded back, so I yield 10 minutes of that time.

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

Mr. KERRY. Mr. President, I thank the Senator from South Carolina. I may not use the entire time, but I would like to pick up where I left off in the questioning with the Senator from Delaware. There is not anybody in America who has not become so aware—I think ''overwhelmed'' is a better term—by the level of violence that seems to consume this country at this time.

I think it reached a new level of depravity with the story a few weeks ago when a woman was murdered and cut open so that her live fetus could be taken out by animals who somehow had the notion that it was an acceptable way to give someone else a live child. We are raising sociopaths in this country at a rate that ought to alarm every American. I think it does alarm them, and it somehow rings rhetorical alarm bells in Congress, but it just does not produce a response that is adequate.

I think most Americans know that. I think most Americans understand that unless the 36 percent of children nationwide who are born out of wedlock, who have little prospect of anybody in their lives giving them some values, unless the prospect of those kids gaining some sense of what this country and civil behavior is all about increases, we are going to see a lot worse in the next 10 or 15 years.

What astonishes me, Mr. President, is that every analysis by competent people, every criminologist, every researcher in the field of youth violence, is telling us that this Nation is going to see a wave of criminal activity among our young unless we do something about it.

The response in this bill, notwithstanding good efforts by good people to take a minimal number of resources and shift them around, is just inadequate. It is simply inadequate when we know that we have one-tenth the number of the police force we had 30 years ago—when people are scared to go out of their home at night—go to a part of town that they know may not be safe at night—when people are worried whether or not their car will be stolen when they go out.

The greatest single message and deterrent in taking back the streets from that fear and from that kind of thug dominance are police officers. The Senator from Delaware said that 15 years ago—this is a fact we talked about many times—we had 3.5 police officers per violent crime in America. Today we have anywhere from 3.5 to 4.6 violent crimes per police officer.

It is not rocket science to begin to understand the relationship between putting the police officer on the street and the ability to deter crime. Most thugs do not go out and walk into a 7–11 or a gas station when there is a cop standing 40 yards away or where there is someone that is on a regular patrol and they know the chances of being apprehended are pretty good.

The problem in America is that over the last 10 or 15 years we have sent a message to people that the probability of being apprehended is not so good. In fact, Mr. President, two out of five people who commit murders in America will never cross the threshold of a police station, let alone a courthouse. We have also learned that in community after community after community where we have put police officers on the street in community policing, life has improved.

Just this past week the Attorney General visited Lowell, MA, where we managed to get a Federal grant to help create a community policing entity in a part of town that had seen pimps and prostitutes and drug gangs take over the streets. The moment the police came in, the pimps and prostitutes and drug gangs disappeared and the stores on that street came back to life and seniors began to say, ''We can come out of our house again and walk to the store.'' It is basic.

Here we have a bill that turns its back on the pleas of police officers, on the pleas of local communities and suggests that somehow we are going to be better off by creating a block grant where communities will now compete against all the other interests in the community in law enforcement rather than going to the priority that we chose—which is putting police officers on the street.

I suppose block grants might be conceivable if you had the resources being dedicated in all the other areas so that you could make a difference. But the fact is, we do not have those resources in the other areas, and we know it. The police should not have to compete against the computers, against the cruisers, against the equipment, against floodlights for a jail, that we need. If they do then we are going to go back to where we started from—that prompted us to guarantee that there are well equipped police officers on our streets.

Mr. President, about 11 percent of all our crimes in this country occur each year in our 85,000 public schools. It is estimated today that 1 out of 20 students brings a gun to school at least once a month. We understand that perhaps more than 200,000 students in America now pack weapons along with their lunches because of their fear of violence in and on the way to school. According to the National School Safety Center, nearly 3 million crimes are committed in, near, or around a school campus every year. That is one crime almost every 6 seconds that a school is in session.

So, Mr. President, this is not a smart approach to the problems of increased criminal activity in this country. It is not enough. If this represents the best that we can do at a time when the country is in crisis, then we ought to be forced to go back to the drawing board and do better.

Mr. President, violence is an epidemic in America that knows no local

or State boundaries. It is spilling over into thousands of communities across America. In September, in Massachusetts, a young prosecutor, Assistant Attorney General Paul R. McLaughlin, was gunned down by a hooded youth in a display of a level of gang violence and immorality unprecedented in this country. It was a brutal assassination of a public servant doing his job—the kind of violence we see in other nations, but not in America.

Against that backdrop, it is ironic that I have to come to the floor of the U.S. Senate to plead with some of my colleagues to keep cops on the street—to plead for them to abandon ideology and their own political agenda and respond to do what is right, not what is expedient.

I fear, Mr. President, that our headlong rush to balance the budget at any cost—even the cost of the life a young prosecutor—is irrational, irresponsible, shortsighted, and immoral.

Now, I know that perhaps nothing could have stopped this brutal murder, but we have to ask ourselves today, what are our priorities. What kind of people are we if we chose the bottom line over the lives of public officials. If we rigidly hold to extremist dogma no matter who gets hurt and who suffers.

Mr. President, let us bring this debate about Commerce-Justice-State appropriations to where it belongs—with the will of people—the concerns of thousands of local police officials who came to Washington to testify year after year for us to give them directly the tools they need to fight crime on the streets.

And almost 8-years later we are here virtually thumbing our noses at them and doing so in the same week that violence on the streets has reached a dangerous new level. The real issue before the Senate is not which formula we should adopt. Yes, there are real differences. The formula of the Republican bill allows much more discretion to State Governors, as to how the money will be spent. Last year we required that the money go directly to police departments, because we know the sorry history of police funding.

From 1971 to 1990, as the country was literally drowning in a tidal wave of crime, and still is, our Governors and mayors and legislatures—indeed the entire political structure—engaged in a policy of unilateral disarmament.

From 1971 to 1990, in the midst of this crime wave, we increased spending on lawyers and public defenders by over 200 percent. We increased prison spending by 156 percent. We increased spending on State and local police by all of 12 percent.

So in last year's bill, we said, we are going to give control over this money, this relative pittance of Federal funding, directly from the Federal Government to the cops who need it. We said, ''We are going to require that the money be spent on police.''

Now the new majority wants to take all the Federal money, and give it back to Governors to control. Perhaps, this time, they will in fact spend it all on police, and do so wisely. This will be a real test, and we will all be watching; not just those of us in the Senate, but the American people, suffering the ravages of crime and violence, all over America.

That suffering, its magnitude, the utter disgrace it represents for every man and woman in this Chamber, that is the real issue before us.

It is estimated that crime has increased by more than 600 percent since 1950.

Communities have been ravaged by indiscriminate acts of violence. Such acts have been and are eating away at the core of our cities and towns, and the impact on our schools has been devastating. I do not believe that there has been a rural, urban, or suburban school that has escaped its grasp.

Families have been destroyed, lawlessness has exploded, and many young people have watched first hand as their friends and relatives were killed in front of them. Such killings have left an indelible impact on the lives of these young people—an impression that will stay with each of them forever.

Mr. President, the problems of crime and violence that we talk about today are not new, but have been at least 30 years in the making. During this time we have watched violence emerge as one of the leading public health epidemics in the United States.

As the people of this Nation and the Congress prepare to do battle over whether and how to restructure our national health care system, let us not forget two important facts.

First, the medical costs associated with gun violence in 1992 have been estimated at approximately $3 billion.

Second, average charges for a young gunshot patient in 1991 equaled the cost of a year of tuition, room and board at a private college—about $14,000.

Mr. President, crime and violence have reached into every part of our daily lives and that of our children. No American, no matter what age, has escaped its wrath and its impact on education has been so severe that 10 percent or more of the Nation's largest school districts have installed metal detectors this year than last year. As shocking as this has become, even more alarming is why so many schools have been forced to do this.

First, about 11 percent of all crimes occur each year in America's 85,000 public schools.

Second, it is estimated that one in 20 students bring a gun to school at least once a month.

Third, it has been said that more than 200,000 students pack weapons along with their lunches because of fear of violence in, or on the way to school.

Finally, according to the National School Safety Center, nearly 3 million crimes are committed in or near a school campus every year—about 1 every 6 seconds that a school is in session.

Mr. President, as this Congress talks about the problems of crime and violence, the inescapable reality is that the conditions described above create an educational environment that thwarts the efforts of public school teachers to educate students; it impedes teaching and learning, and underscores one of the main reasons why more and more parents are refusing to send their children to public school.

But before another member of this body stands up to criticize public schools and public school teachers, it is time each of us consider the environment many public school teachers find themselves trying to teach in. In urban America, that environment has been hostile not only to teaching, but to life itself. Students committing indiscriminate acts of violence against another student because of drugs, clothing, or simply because they wanted to. In fact, the arrest rate for juveniles aged 10–17 for weapon law violations increased 117 percent between 1983 and 1992.

It is no longer enough to say that you cannot teach a child who comes to school hungry. The problem today is well beyond the single issue of hunger that previously confronted public school teachers. Today's problems are multifaceted and to a greater degree than ever before, are compounded by crime and violence on the way to, during and after school.

Public school teachers today must now serve not only as teachers, but as counselors and referees, while also fearing for their own safety.

What is before us therefore is the fact that both approaches—both the Democratic bill and the Republican bill, the 1994 crime bill and the 1995 appropriation—both of these efforts are woefully, shamefully inadequate.

We are like doctors who discover, at long last, that our patient has cancer; and we are prescribing aspirin.

Just as to police: the President told us, and he is correct, that we now have one-tenth the effective police strength of 30 years ago. Did he ask us for ten times the police, to return us to the levels of security we once knew? No. He did not suggest 5 million new police. He did not ask us for 1 million. He did not ask us to, and we did, even double the police we now have.

He asked us, we will remember, for funds to add perhaps 30,000 new police. We, in the Senate, last year, Democrats and Republicans, joined to increase the number to a possible 100,000. But we did not by that act begin to solve the problem, or meet the needs of the country.

What do we need? The American people are already paying, out of their own pockets, for about 1.5 million private police—three times the number of police paid for by taxes, on public payrolls. They are not available to work where the real problems are. They are not trained to work the mean streets

where crime and criminal activity breed. They protect only enclaves. Is that to be our strategy, as in the Vietnam of long ago—to protect only the enclaves of the comfortable, and business, and leave the rest of our own fellow citizens alone and unprotected?

In Vietnam, I saw a lot of wonderful men give their lives for this country: not for some abstraction, not for a piece of colored cloth. But for their families, and for their fellows, and for the children that too many of them never lived to see. Are we keeping faith with them? Are we protecting their children and grandchildren today? Are we doing our duty to preserve the country for which they, as so many before them in the history of the Nation, gave the last full measure of devotion?

So let us vote these funds today. But let us understand that this bill is less than a beginning, less than a start. It is my understanding that there will be offered, later this year, a new substantive crime bill. At that time I intend to offer amendments that will substantially increase authorized spending assistance to State and local law enforcement, and to perhaps begin the debate we should have had long before this time.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Let me thank the distinguished Senator.

I now will yield 10 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The distinguished Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the Senator.

I think what is one man's pork is another person's beef. I remember on the floor of this body, when the crime bill was first considered, the wonderful porker that the Senator from New York had drawn on a chart and had before this body. The contention was that the crime bill, and this particular aspect of it, was a porker.

I want to say, it has turned out to be the beef of the crime bill. There is no question in my mind that the community policing part of the crime bill is the most popular part of the crime bill out there.

''If it isn't broke, don't fix it.'' The fact of the matter is, in my State, crime rates are going down in all of the jurisdictions because of the community policing aspect of this bill.

So I am very disappointed—there are good things in this bill—but I am very disappointed by the fact that we take the discretionary aspect out of the community policing bill, make it a block grant program, give it to the local jurisdictions, but enable those local jurisdictions to use it for whatever they want to use it. They can use it for new squad cars. They can use it for some aspects, I gather, of police stations. They can use it for desk sergeants, if they want to. That defeats the purpose of the community policing aspect of this bill.

What is that purpose? The purpose is really to show that a police force in a crime-troubled area with trained community police officers who know the communities and know the difference between the bad guys and the good guys are going to be more effective in making good arrests and, secondly, in retarding crime in that area.

To date, the crime bill has targeted about $8.4 billion directly to States and localities.

This program, as I said, is working. According to the Department of Justice, California has received sufficient funding to support the hiring or redeployment of 3,900 police officers from the crime bill COPS program. This is not pork. This is beef. These funds have gone to the larger and most troubled crime-plagued cities: Los Angeles, San Jose, San Francisco, San Diego, and, most recently, Oakland.

As a matter of fact, beginning in March of next year, the Los Angeles Police Academy will be graduating 100 officers a month for 6 months, funded through the community policing aspects of this bill.

Additionally, community policing funds have gone to smaller California cities—Selma, Victorville, Santa Cruz, Ojai, and Millbrae.

It is no coincidence, then, that the crime rate in California's biggest cities dropped by 7 percent during the first 6 months of this year, compared to the same period last year, with double-digit decreases—double digit, that is more than 10 percent—in homicide, in rape and in robbery.

California's Attorney General, Dan Lungren—a Republican, by the way—credited the intensified use of community-oriented policing by local police departments for this drop in crime. Attorney General Lungren said of community-oriented policing, and I quote:

''It should be utilized in every part of the State.''

I could not agree more.

So the COPS Program is working. ''If it ain't broke, don't fix it.'' It is putting cops on the streets. It is reducing crime.

Second, my other concern with this bill is the drug courts. In America, we constantly have the debate: Do you fight drugs on the supply side or do you fight them on the demand side? I know, as a mayor for 9 years, that you have to do both and you have to do it well. America has never fought drugs equally on the supply side and the demand side.

This crime bill was the first time that more moneys were put in for prevention and for rehabilitation to almost equal the amount for interdiction and enforcement. Drug courts were a relatively new aspect.

About $1 billion dedicated to drug court programs over the next 6 years is eliminated in this conference report. That is a mistake. A study by the California Department of Alcohol and Drug Programs found that for every $1 spent on treatment for alcohol or drug abuse, $7 in savings is accrued. There are now evaluations coming out of drug courts. We are finding—surprise of all kinds—they are working. ''An Evaluation of the Oakland Drug Court After Three Years,'' by Judge Jeffrey Tauber of the Oakland-Piedmont-Emeryville Municipal Court, found the following results, which I quote:

> The data collected supports the conclusion that the imposition of an immediate and intensive supervision and treatment program substantially reduces the rate of felony recidivism during a 3-year period following arraignment. It is estimated that there were 44 percent fewer felony arrests—
>
> That is 582 fewer felony arrests—
>
> for offenders in what is called the FIRST Program—fast, intensive, report, supervision and treatment—than under the previous program.

California is expected to receive an estimated $119 million for drug courts, or enough for about 59,500 offenders over the next 6 years. By eliminating this program, this bill will deprive States of a tough program to get and keep nonviolent offenders off drugs and to unclog our courts of violators who would otherwise walk.

Another problem I have with the bill is the cuts in the Commerce programs. I come from a State where 1.2 million people are out of work. The unemployment rate currently exceeds 7.8 percent. It exceeds the national rate by 2 points. This bill cuts EDA, which is the last remaining economic tool provided by the Federal Government since programs were developed in the 1970's to help cities.

The program that is cut targets the defense conversion support. In my State, to cut defense conversion and its ability is to put people out of work, plain and simple.

The bill also eliminates funding for the Advanced Technology Program which assists firms with new technology to provide new breakthrough products and processes. One of the things that California was assured, having gone through more than 30 base closures, with between 500,000 and 1 million people who have lost their jobs so far because of defense downsizing, is that there would be an adequate program of defense conversion to help industries convert into nondefense pursuits. And now we find that these funds will be cut off by this bill as well. It is unfortunate.

Let me conclude by saying, community police have reduced crime. Community policing works. The crime bill has worked. It is not pork; it is where the beef is.

I thank the Chair. I yield the floor, and I yield back the remainder of my time.

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

Mr. GREGG. Mr. President, before I yield time, I do think that a number of comments that have just been made both by the Senator from Massachusetts and the Senator from California

deserve a quick response, because I do not believe that they accurately characterize the bill.

It was ironic, in fact, that the Senator from Delaware came down here and excoriated us for approximately an hour and a half on the attitude this bill takes, specifically citing one of the programs, which is prison construction, where we have created the possibility of States to obtain approximately $0.5 billion in prison construction for illegal aliens.

This was not done to benefit my State. My State does not have a whole lot of illegal aliens running around. This was done to benefit the State of California, the State of Texas, the State of Florida, and it was done at the expense, as was pointed out most vividly by the Senator from Delaware, at the expense of some of the smaller States, of which I happen to be a representative.

So I find a certain irony when the Senator from California comes down and attacks this bill on the basis that it is not doing enough. I find equal irony when the Senator from Massachusetts comes to the floor and says we are not spending enough money, when this bill increases the spending in the crime area by 19 percent. To do that, it had to take the money from the State Department and the Commerce Department because we were assigned a certain allocation.

So if the Senator from Massachusetts, or other Senators, wish to attack the nature of this bill and the amount of money being spent on crime prevention in this bill, which happens to be a 19-percent increase—a substantial increase considering the present climate—I believe they should tell us where they want to take more money from—from Commerce or the State Department?

On the issue of the drug courts, the fact is that under the block grant proposal, drug courts are not eliminated. They are an available option for any State that decides to expand and use drug courts. It is very much available under that block grant.

There are other points on which I will probably have to reserve my right to put a written statement in the RECORD.

I now yield 7 minutes to the Senator from Tennessee, Senator THOMPSON.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I thank the Senator from New Hampshire, who makes some very valid points. One of them, essentially, is that it focuses on the crucial issue here, and that is whether or not law enforcement is a State and local function still, as it has always been in this country, or whether or not, basically, it is a matter for the Federal Government to attend to, given the Federal Government's wonderful track record in solving these problems historically.

I think people realize, ultimately, that this money that flows down from on high to the State and local communities comes from their own pockets. It is not free money. I have often wondered how we got into a situation in this country where folks down where I grew up, in Lawrenceburg, TN, will get in their car and drive by the courthouse, to Nashville, past the State capital, and go out to the airport to get on a plane to fly to Washington, DC, and talk to me about how many cops they ought to have in Lawrenceburg. That is the situation we have gotten to in this country.

While I do not think the conference report is the ultimate solution to this, I think more and more money ought to be left in the pockets of the people on the local level and let them solve the problems. It is certainly better than any alternative we have.

The conference reports reflects what those of us who are new to this body were elected to do. Its provisions reflect the reality that there is not always a Washington-based solution to every problem. The Constitution limits the power of the Federal Government. Crimes, traditionally, in this country are not a national problem, with exceptions, but it is primarily a State and local problem. By eliminating the COPS Program, the conference report respects the proper role of the States and the people under our constitutional system.

The COPS Program shows insufficient respect for our system of federalism. With the COPS Program, citizens of States and localities are taxed by the Federal Government. The tax money is returned to the States, minus the cost of a Federal bureaucracy, and with the addition of many strings on their own money.

The formula for allocating the money is peculiar. COPS funds go to communities without regard to their crime rate. The COPS office knowingly gave $75,000 to one town for the police chief to leave the office for the street, supposedly. He wound up reading stories to second graders. How does that serve any Federal purpose? Two officers were sent to a low-crime Chicago suburb, whereas a poor Chicago suburb, whose crime rate tripled, received only one simply because it had fewer officers than the wealthier suburb.

The strings on localities make even less sense, Mr. President. The money can be spent only on putting police on the street. Rural areas may not find community policing appropriate to their sparse population, but with the COPS Program, that is the only option. It is said on the floor of this Chamber that, my goodness, they might spend it on police cars, equipment, or do something else with the money.

My question to that is: What is the problem? Have we in this body achieved such expertise on the details of law enforcement in the small communities across the Nation that we are in a position of supplanting our judgment for the people whose responsibility it is?

The President complains that police are outgunned by criminals, but under the COPS Program, localities are prohibited from spending grants on guns and ammunition, equipment, technology, training, or other purposes that actually correspond to the needs of the citizens where the police will actually serve. The District of Columbia, with an enormous crime problem, refused to apply for a COPS grant because the police chief says that the District has all the police it needs. What it lacks is appropriate technology and equipment. If the Federal Government does not even know what is best for Washington, DC, how can it know what is best for communities around the rest of the country?

Of course, the monetary rules are the COPS Program's worst infringement on State's rights. COPS funds officers at $25,000, but the Justice Department's own figures show that the average police officer costs $50,000. When a locality receives a COPS grant, it is also receiving a Federal order to spend another $25,000 that the community might wish to spend on other law enforcement functions, or even other desirable local functions, or even tax relief.

Sunnyvale, CA, which the Clinton administration hailed in its Reinventing Government campaign, returned its COPS grant because it was required to spend an enormous amount of its own money and to comply with numerous Federal strings as a condition of Federal funding.

Moreover, the COPS Program is political. Applicants are required to indicate the locality's congressional district. The COPS office is duplicative. The Justice Departments's Bureau of Justice Assistance career civil servants already dispensed law enforcement grants to State and localities. By contrast, COPS funds are allocated by political appointees in a separate office. That office has a budget of $28 million, much more than the $16.3 million of COPS grants that Tennessee has received, for example.

By contrast, the conference report replaces the COPS Program with block grants. Local officials will best determine how to meet local needs, without the interference, or even the existence of a Federal bureaucracy. It would have been better if the conference report had gone further, in my opinion—eliminating block grants and simply letting localities make their own law enforcement decisions, and leaving the money there for them to do it with. Then, municipalities would be responsible for decisions made, and we would have a little bit more accountability in our governing process. When multiple layers of Government are involved with street crime, each level can pass the buck to another, and the citizenry will not know who to hold accountable.

The differences between Congress and President Clinton are clear. President Clinton may well veto the conference report over the COPS Program. He may

feel he wants to take a stand on something. If he wants to take a stand for a Federal, bureaucratic, inefficient, and inflexible program, so be it. The conference report's approach is local, flexible, and efficient. In fact, it is so efficient, Tennessee will not only receive more than twice as much money under this approach than under the COPS Program, but it will not have to comply with the whims that come from out-of-touch bureaucrats. I am sure many other States will find themselves in the same position. Therefore, I rise in support of the conference report.

I yield back any time I may have remaining.

Mr. GREGG. Mr. President, I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement accompanying H.R. 2076, the Commerce-Justice-State appropriations bill for fiscal year 1996.

The conference agreement provides $27.3 billion in budget authority and $19.1 billion in new outlays for the programs of the Departments of Commerce, Justice, State, the judiciary, and related agencies.

When adjustments are made for prior-year outlays and other completed actions, the bill as adjusted totals $27.3 billion in budget authority and $26.6 billion in outlays.

Under very difficult funding contraints, this is a bill that honestly and straightforwardly sets forth funding priorities while staying within the subcommittee's revised 602(b) allocation. The final bill is less than $1 million in budget authority and $2.4 million in outlays below the revised 602(b) allocation.

I commend the new chairman of the subcommitee, Senator GREGG, for the fine job he did in conference on this bill. This bill provides dramatic increases in our front-line law enforcement and the Border Patrol as well as increased flexibility for States in developing their crime fighting strategy through the new State and local law enforcement assistance block grant. A total of $1.9 billion will be provided to States and local governments for the hiring and equipping of law enforcement personnel, updated technology, and crime prevention programs.

There are a few items for which I would like to express particular appreciation to the distinguished chairman and ranking member of the subcommittee. One is the $4 million provided for the Women's Outreach Program under the Small Business Administration, another is the flexibility for States to fund drug court programs under the law enforcement block grant, and lastly, the agreement to preserve the Legal Services Corporation.

With regard to the Legal Services Corporation, I must say that I am not pleased with the final funding agreement of $278 million. I realize the House was concerned about passing the conference report and felt it necessary to remain at the House funding level.

However, it is highly likely that the President will veto this bill. When we revisit this issue, I and a number of my colleagues will insist on a higher funding level.

This bill retains the Legal Services Corporation but significantly restructures its activities. I believe the Corporation should withstand scrutiny from even its harshest critics. Tough new restrictions on the uses of LSC and non-LSC funds are in place and enforceable through the independent office of the inspector general, rather than through the Corporation itself.

The funds will be targeted toward basic legal services for low income individuals ensuring equal access to justice. Within 6 months, the Corporation will be out of the more controversial business activities that have brought so much criticism in the past.

Finally, I note that the conferees have continued bipartisan support for the Fulbright Exchange Program recommending $102.5 million to continue the program in fiscal year 1996.

Since the Fulbright Program was signed into law in 1946, nearly 230,000 Fulbright grants have been awarded to U.S. citizens and to nationals of 150 other countries. These scholars go abroad to study, teach, or conduct research and foreign nationals come to the United States for the same purpose.

For every $100 the U.S. Government spends on Fulbright exchanges, the Fulbright Program attracts $44 from foreign governments and from in-kind support and private contributions both here and abroad attesting to its international stature.

Non-U.S. Government support for the Fulbright Program increased by 20 percent from 1993 to 1994 alone, a strong indication of the program's prestige throughout the world.

I am pleased that the Congress will support the Fulbright Program in its 50th anniversary year.

I urge my colleagues to support the conference agreement.

Mr. President, I ask unanimous consent that a table showing the Budget Committee scoring of the conference report accompanying the Commerce, Justice, State, and the judiciary appropriations bill be printed in the RECORD at this point.

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

COMMERCE-JUSTICE SUBCOMMITTEE, SPENDING TOTALS—CONFERENCE REPORT

[Fiscal year 1996, in millions of dollars]

	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed	.....	92
H.R. 2076, conference report	151	125
Scorekeeping adjustment	.....	.....
Subtotal defense discretionary	151	217
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	.....	6,561
H.R. 2076, conference report	22,659	17,177
Scorekeeping adjustment	.....	.....
Subtotal nondefense discretionary	22,659	23,738
Violent crime reduction trust fund:		
Outlays from prior-year BA and other actions completed	.....	826
H.R. 2076, conference report	3,956	1,286
Scorekeeping adjustment	.....	.....
Subtotal violent crime reduction trust fund	3,956	2,112
Mandatory:		
Outlays from prior-year BA and other actions completed	2	20
H.R. 2076, conference report	503	480
Adjustment to conform mandatory programs with budget resolution assumptions	27	25
Subtotal mandatory	532	525
Senate subcommittee 602(b) allocation:		
Defense discretionary	151	218
Nondefense discretionary	22,659	23,739
Violent crime reduction trust fund	3,956	2,113
Mandatory	532	525
Total allocation	27,298	26,595
Adjusted bill total compared to Senate subcommittee 602(b) allocation:		
Defense discretionary	.....	−1
Nondefense discretionary	−0	−1
Violent crime reduction trust fund	−0	−1
Mandatory	.....	.....
Total allocation	−27,298	−26,595

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. DOMENICI. Mr. President, let me suggest that in times when we do not have all the money in the world, the appropriation process, in my humble opinion, has a very, very specific job to do and that is to prioritize where the money will be spent. If there is not enough money for what everybody wants in a bill, then it is the responsibility of those who lead the committee to look at the spectrum of things they are supposed to be considering and say, ''Which are most important?''

Frankly, under our new chairman, Senator JUDD GREGG, ably assisted by the ranking member, Senator HOLLINGS, who has chaired this subcommittee before, they have done just that, as it pertains to the No. 1 issue in the United States of America: crime.

If you ask the American people what they would want us to spend their taxes on in this bill, they would say pay for crime prevention, and U.S. attorneys who are prosecuting, and for prisons that are holding prisoners, and for U.S. marshals who make sure they are taken into custody, and pay for FBI and DEA, and, lo and behold, add to that the entire Department of Justice criminal apparatus. Funding for these kinds of programs went up 19.2 percent.

Frankly, I come to the floor to congratulate the chairman and ranking member for that. They have added one other area that definitely needs improvement, because if you ask Americans what else they are very worried about, they will say, ''Illegal immigration.'' They will say ''our borders are

not our borders any more. They are sieves,'' and they will say, ''What can you do to improve it?''

In this bill, in a dramatic way, we have increased the Immigration and Naturalization Service, the INS. The American people would vote ''aye'' for that. They would say yes.

Frankly, there are a lot of other things in this bill that are secondary. If we had all the money in the world we ought to fund them. I want to lodge a complaint and a concern because we did not have enough money, but if we ever get back to the table and are producing another bill, I am a strong advocate of giving legal services to poor people who need a lawyer. I am not an advocate of Legal Services taking on all kinds of causes. I want them to pay for individual poor Americans who are being sued or have a lawsuit, so they have access to a lawyer.

I believe Democrats and Republicans alike ought to be for that. This bill contains prohibitions against the Legal Services Corporation that they can live with and still provide services for the poor. It does not have enough money but there is not enough to continue providing the most critical services.

This bill may not see the light of day. It may be vetoed. Who knows what the budget negotiations might bring? I came to the floor to say I believe we are about $60 million below the Senate-passed level for Legal Services, and I hope at some point we can make that up.

I close these remarks once again by saying if ever there was a subcommittee that saw what America truly needs from its Federal Government, and where our people would like their taxes spent, this subcommittee did it, because they have increased every legitimate bona fide area of crime prevention that the U.S. Government is in by a significant amount. I laud them for it. I hope we can eventually get this new money into these programs and these activities.

I yield the floor.

Mr. GREGG. First, I wish to thank the Senator from New Mexico for his generous comments. I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Arizona.

Mr. MCCAIN. I congratulate the authors for an excellent piece of legislation. I come to the floor quite often complaining about wasteful spending earmarks and other pork barrel projects and find this legislation largely devoid of that. I want to express my appreciation to both the Senator from South Carolina and the Senator from New Hampshire. I hope we can continue that practice and indeed expand it. I have seen it in 2 of the 13 appropriations bills, and I hope that we will be able to continue to make progress in that area.

Mr. President, the reason why I came to the floor, and I will not use my full time, is that every time I come to the floor to talk about our relationship with Vietnam I hope it is my last. Unfortunately, I have been given one more opportunity.

The bill before us conditions funds in an unacceptable manner for expanding diplomatic relations with Vietnam on our efforts to gain the fullest possible accounting of American servicemen. The President has made clear in his statement of policy on this bill that he will veto it. Among the reasons he listed for doing so is his objection to this particular provision.

This being the case, I will not take a long time to discuss the issue. But I do want to point out one simple fact: The President of the United States has normalized diplomatic relations with Vietnam. That is a fact. The Senate has managed to at least grasp this reality. Just over 2 months ago it supported the President's decision by voting against an amendment prohibiting normal economic relations with Vietnam. As for the other body, the language which has made Vietnam an issue in this bill at all was approved without a recorded vote.

Mr. President, to state the obvious, the President must have the authority to conduct our foreign relations. Whether I agree or disagree with the President of the United States—in this case I happen to agree—I know that elections have consequences. For better or for worse, President Clinton was elected to conduct our Nation's foreign policy.

He is the President of the United States and he has decided it is time to move forward in our relationship with Vietnam. Again, this is a fact.

He will veto this bill, as is also within his constitutional authority, and we will begin again. I hope the next time the conference committee considers the issue of United States-Vietnam relations it will dispose of it in a manner that allows us to put the issue behind us.

I yield the floor.

Mr. SMITH. Mr. President, I rise to strongly support the compromise language that was worked out by the House and Senate conferees with respect to an expansion of our diplomatic presence in Communist Vietnam. I also take vigorous exception to the remarks made by the Senator from Arizona, Senator MCCAIN, in opposition to the work done by the conferees. I would say to my friend from Arizona that this language is so reasonable, that there is no way the House is going to back down on it, and I intend to use every means at my disposal to prevent any weakening of the approved language. Moreover, while I respect the Senator from Arizona's right to raise his objections, I must say that I am extremely disappointed that he would make such a statement with respect to this specific provision on Vietnam worked out by the conferees.

I would note that, in addition to a majority of the House-Senate conferees, this provision is supported by the majority leader, the chairman of the Foreign Relations Committee, the chairman of the Armed Services Committee, the chairman of the Asian/Pacific Subcommittee, the chairman of the International Operations Subcommittee, as well as the House chairman of the International Relations Committee and the National Security Subcommittee on Military Personnel. Moreover, four of our major national veterans organizations—the American Legion, the Disabled American Veterans, AMVETS, and Vietnam Veterans of America—support this language, in addition to the National League of POW/MIA Families and the National Alliance of POW/MIA Families. In short, there is broad support for this provision, notwithstanding the remarks by the Senator from Arizona.

The fact is, Mr. President, that all Congress has asked for from the President in this provision is his assurance that Vietnam is fully cooperating on the President's own established criteria for measuring progress by Vietnam on the POW/MIA issue. Let me repeat, so there can be no misunderstanding: all the Senate and House conferees have asked for is the President's assurance that Vietnam is fully cooperating on the President's own established criteria for measuring progress by Vietnam on the POW/MIA issue. If Vietnam is not fully cooperating, then I would think most of my colleagues would agree that perhaps we need to take a closer look at the administration's policy toward Hanoi and whether it is working. If the President says Hanoi is fully cooperating, then it is full steam ahead with Vietnam relations.

I am both confused and amazed that the Senator from Arizona does not like the term fully cooperating. All year long we have heard rhetoric praising Vietnam's cooperation on the POW/MIA issue from the administration and certain Members of the Senate using every adjective in the book—words like ''superb,'' ''splendid,'' ''unprecedented,'' ''undiminished,'' ''great,'' ''outstanding''—that is what we've been told, Mr. President. But now, when we ask the administration to put their assurances in writing, with words that have real meaning, some people up here get nervous and we see the kind of statement we heard earlier. Ironically, I think the remarks made earlier may cause the American people to wonder whether they have been deliberately misled by the President in order to allow the normalization of full taxpayer-funded relations with Communist Vietnam. I find it very troubling that my friend is raising a red flag on such a reasonable provision.

Mr. President, should the Senator from Arizona or any other Senator want an extended debate on this issue, I would put them on notice right now that they will get such a debate from this Senator if they try to weaken this language in the coming days.

The reason many of the wounds from the Vietnam war have yet to heal has

to do with things like honesty, commitment, and priorities. That is what this debate will be about, because that is what the House and Senate conferees are seeking from the administration with the certification on POW/MIA cooperation in this bill.

Mr. President, I ask unanimous consent that a copy of the referenced provision on Vietnam be printed in the RECORD immediately following my remarks in order that my colleagues may see how reasonable a provision it really is. I yield the floor.

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

BILL LANGUAGE AGREED TO ON NOV. 27, 1995, BY THE HOUSE-SENATE CONFERENCE ON H.R. 2076, THE COMMERCE/JUSTICE/STATE AND THE JUDICIARY APPROPRIATIONS BILL FOR FISCAL YEAR 1996:

SEC. 609. LIMITATION ON THE USE OF FUNDS FOR DIPLOMATIC FACILITIES IN VIETNAM.—None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for:

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995;

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995,

unless the President certifies within 60 days, based upon all information available to the U.S. Government, that the Government of the Socialist Republic of Vietnam *is fully cooperating* with the United States in the following four areas:

(1) resolving discrepancy cases, live-sightings, and field activities,

(2) recovering and repatriating American remains,

(3) accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIA's,

(4) providing further assistance in implementing trilateral investigations with Laos.

Mr. HOLLINGS. Mr. President, momentarily the Senator from Delaware, who I understand has substantial time left, will come to the floor.

Let me agree with my distinguished chairman relative to the Immigration and Naturalization Service whereby we cut not only New Hampshire, we cut the State of South Carolina and other small States to the tune of $500 million—half a billion bucks out of the prison fund, out of prison construction, so that we could set up this imprisonment of immigration violators in the States of California, Texas, Florida, and otherwise.

So there should not be any criticism on that score. There should be thanks to the Senator from New Hampshire and the committee that has done its work in that particular regard.

Otherwise, Mr. President, let me emphasize one more time the advance technology program while I have a few minutes. We started that in our Commerce Committee after a series of over 2 years of hearings, and we were trying our dead-level best to get America back on top of its own technology in the context of yes, we were leading in the research but never in the development.

Specifically, down in Houston on the superconductor we had Nobel Prize winners there, but the competitor, Japan, orchestrated some 22 entities and markets and wins and profits. We win the prizes. They win the profits. We wanted to get on top of that particular problem and with the advance technology program whereby they pick the winner—not the Government—and it is picked by them coming with at least 50 percent of the funds and thereafter reviewed, peer reviewed by the National Academy of Engineering, that the award is made.

It is has worked very successfully. The industry, particularly the electronics industry, the computer industry and otherwise, came to us and the Council on Competitiveness under President Bush, John Young of Hewlett-Packard testified on behalf of this program.

I dovetailed the program, having chaired the hearings otherwise on the trade bill back in 1988. It was not in the budget. Thereafter, President Bush did pick up and submit a request for it.

Now, over on the House side they have the bit in the teeth relative to winners and losers, industrial policy, all kinds of nonsensical pollster slogans—are you for the Washington Government picking winners and losers? You hear some of that, and of course carried to its logical conclusion about the best government is the least government, and we do not have to wait for Washington. Just do away with the county and State government and let the township operate and forget about Washington, too.

These are good arguments on the campaign trail but the fact of the matter is we have an ongoing program that should never be abolished, to maintain the development, not just the research, but the development of our technology.

At the end of World War II we had 50 percent of the work force in America in manufacturing; 10 years ago it was down to 26 percent; today, it is 13 percent.

I used to go to the factories in New Hampshire campaigning.

There are very few factories left in New Hampshire. I can find up on the highway, 128, I think it is, going up from Nashua to Boston, Wang and some of the others, Wheeler, Beta, Frye—oh, I had a good time.

I mentioned earlier, the Governor of North Carolina, there, after Secretary of Commerce Hodges, he had been the national president of the Rotary, and his widow, now a resident of your home State, made sure I was introduced to all Rotary Clubs up there. It was a tremendous pleasure. Otherwise, when referred to on the Hoover Commission by our distinguished full chairman, Senator HATFIELD of Oregon—yes, we served on that Hoover Commission back in 1953 and 1954, investigating the intelligence activities.

I have, again, the same reverence he has for former President Herbert Hoover. He is the one who, incidentally, started the telecommunications bill that we are trying to conference. It had a very interesting beginning, that particular program, you might say, in law. It was back in 1912, at the sinking of the *Titanic*, whereby David Sarnoff, working in the store Wannamakers, in Philadelphia, selling wireless sets, went up on the roof and contacted survivors and nearby ships in the rescue and orchestrated the rescue effort. He stayed up there 3 days and nights. The crowds gathered below.

But, thereafter, then everybody wanted a wireless, and, by 1924, under Secretary Hoover, the industry asked to be regulated. They had jammed the airwaves and you could not reach anyone. They said, ''For Heaven's sakes, we need the National Government to come and regulate us.''

So, those who are now running around, deregulate, deregulate—we want to. We want to catch up the law with the technology, which is far ahead of us here in the Congress. But, in so doing, we want to make certain it is done on a competitive basis rather than a noncompetitive basis. We do not want to extend the monopoly.

So, that being the case, I retain the remainder of my time.

Mr. SARBANES. Mr. President, I rise today in strong opposition to the conference report on the Commerce, Justice, and the State Department appropriations bill for fiscal 1996.

While this agreement is an improvement in some respects over the bill that passed the Senate earlier this fall—most notably in the funding for the Economic Development Administration—it still fails to provide adequately for many programs which are absolutely essential to promoting economic and business development, investing in research and development and protecting American consumers.

I want to underscore some of the most egregious provisions in this conference agreement.

First, this bill proposes to eliminate the President's Community Policing Program, one of the most successful and popular anticrime initiatives ever enacted. Communities throughout the Nation have already benefited enormously from the Federal resources made available under this program. There are today over 25,000 new police officers on the street battling violence and drug-related crime. In my own State of Maryland, 365 new officers are on the beat in urban and rural communities creating a new sense of security and adding to the quality of life for all of our residents. The conference agreement's proposal to replace this program with a block grant program would defeat the entire premise of community policing by shifting money

away from providing new police officers to communities in need. Lumping COPS grants in with other law enforcement and prevention programs would instead allow States to use the money for numerous other intentions ranging from prosecutors to housing code inspectors.

Second, the conference agreement has proposed to significantly reduce funding in important programs and laboratory upgrades for the National Institute of Standards and Technology. I would zero out the Advanced Technology Program which assists businesses large and small in developing high-risk/high-impact technologies for the 21st century. The ATP is fast becoming a key mechanism accelerating the pace of commercial technology development. In its first 5 years of operation, ATP has already shown tremendous potential for enhancing economic growth—especially during this time of intensifying investor pressure to cut costs and spend limited research funds. Even though ATP is relatively new, it is already helping researchers in 38 States. The conference agreement would eliminate not only future grant initiatives, but also suspend funds for projects already in progress. This program has truly been a success and must be continued.

I am also particularly concerned about the rescission of $75 million in prior year unobligated balances and reduction of $10 million in the fiscal 1996 request for the modernization of NIST's 35-year-old laboratory facilities in Gaithersburg and Boulder, CO. Without these funds, NIST will be unable to proceed with its construction of the much needed Advanced Technology laboratory, the centerpiece of NIST's upgrade and construction program. As the only Federal laboratory whose explicit mission is developing scientific standards and providing technical support for U.S. industry's competitiveness objectives, NIST must have modern infrastructure—the laboratories, equipment, instrumentation, and support—in order to maintain a viable scientific research program and to keep our Nation on the cutting edge of science and technology as we move into the 21st century.

Third, Mr. President, I am deeply concerned about the funding level for the Legal Services Corporation in this conference agreement. The agreement would provide significantly less funding than provided in the Senate bill, which would have reduced substantially the funding for legal services from the fiscal year 1995 level of $400 million.

For more than two decades, the Legal Services Corporation has been at the forefront of our efforts to give real meaning to the words emblazoned in stone above the portals of the Supreme Court: ''Equal Justice Under Law.'' The Legal Services program has provided critically needed services to millions of poor, elderly, and disabled citizens who otherwise would not have access to the American legal system and the protection it affords the many basic rights we enjoy in this country.

Maryland's Legal Aid Bureau, which receives by far the largest portion of its total funding from the Legal Services Corporation, has done an outstanding job of representing Maryland citizens living in poverty. With the funding received from LSC, the 13 legal aid offices located throughout Maryland provide general legal services to approximately 19,000 families and individuals annually, assisting Marylanders in such routine legal matters as consumer problems, housing issues, domestic and family cases, and applying for and appealing the denial of public benefits.

I am very concerned that the significant reduction in funding in this conference report for legal services would seriously impair the ability of legal services organizations like Maryland Legal Aid to provide these vital services.

Fourth, the conference report cuts $43 million from the administration's fiscal 1996 budget request, funding that is absolutely essential for the Bureau to gear up for the 2000 census. These cuts would seriously endanger the Census Bureau's ability to collect and process periodic economic data. This data is essential for businesses and policy makers to understand what is happening in the economy. A recent editorial in the Washington Post underscores the importance of this funding for the Census and I ask unanimous consent that it be printed in the RECORD immediately following my statement.

For these and other reasons I urge my colleagues to join me in rejecting this legislation.

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

[From the Washington Post, Dec. 7, 1995]

COUNTING THE COST OF COUNTING

Measured by the product created for the money spent, the U.S. Census Bureau is one of the most valuable agencies of government. Data from the Census Bureau are vital to business, to academia, to transportation planners, to those who assess future housing demand and to many others. Census numbers are also among the country's most important political numbers, determining how legislative seats are allocated and where billions in federal dollars will go.

The Census Bureau, like every other agency, is caught up in the battle for a balanced budget. The bureau is unusual among federal agencies because its costs do not go up along a straight line; they peak toward the end of one decade and the very beginning of the next, because of the bureau's central mission: to conduct a national head count every 10 years. The misfortune for the Census Bureau is that the cuts needed to achieve a balanced budget between now and 2002 fall right in the middle of its biggest spending years.

The Census Bureau itself agrees with its various critics that its needs to figure out how to produce better data for less money. If the census in the year 2000 were conducted exactly as the 1990 census was, the estimates are that its cost would grow from $2.6 billion to $4.8 billion. The bureau wants to come in at well under that. But to do so, it may have to rely on various sampling techniques that many Republicans are leery of. Some of the biggest costs the census faces are in going back and finding those who do not reply to the census form. Sampling would cut those costs. So a key question is whether Congress is willing to accept sampling methods in the interest of saving money. If the savings came instead from less intensive efforts to find those who do not answer the census initial query—many of them are poorer than average, members of minority groups, immigrants and city dwellers—the biases that already creep into the data would deepen.

Many in Congress suggest that costs could be cut and response rates improved if the census shortened the questionnaire of its ''long form,'' which goes to about one American in six. A shorter long form would save some money, but at the cost of data lost to government, business and researchers of all kinds. If ever there was a place for one of those cost-benefit analyses the new Congress seems so fond of, this is it.

For the next fiscal year, the Clinton administration had asked for $193.5 million for the census, and the Senate went right along. But the House appropriated only $135 million. The conference committee has settled on $150.3 million. For the short term, it's not clear to us that the census is the best place to look for that much in savings, especially since the bureau is now spending on technological improvements and research designed to save money when the big bucks start getting spent around the year 2000. The test should be whether small cuts now would risk larger cost increases later. Even more important is for Congress to face up to the underlying policy issues, since the goal of a cheaper census could be at odds with some of Congress's other objectives.

Mr. HOLLINGS. Mr. President, the Senate had proposed a 20-percent cut in the budget of the International Trade Commission. The conference report restored most of the International Trade Commission's budget. Various trade reorganization proposals have been advanced. Any attempt at trade reorganization must also encompass the reorganization of the International Trade Commission. It is my firm belief that the Commission flaunts the will of the Congress with regard to enforcement of our trade laws. Furthermore, the Commission is rife with internal conflict. At this time I ask for unanimous consent that memorandums written by the Chairman and various Commissioners be printed in the RECORD. Mr. President, these memos speak for themselves, and they speak volumes for the need to reform the ITC.

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

WASHINGTON, DC, *June 30, 1995.*

MEMORANDUM

To: The Commission.

From: Chairman Peter S. Watson.

Subject: Attempted override of direction to issue press release re study in Inv. No. 332–TA–344.

Earlier today I learned from the Director, Office of Public Affairs, of a purported decision by four Commissioners to override my direction to her to issue a press release in the form that I had approved.

Section 1331, of course, provides that any of my administrative decisions ''shall be subject to disapproval by a majority vote of all the commissioners in office.'' But that section does require a vote. As our own General

Counsel has advised: ''While the statute clearly provides that the Commissioners shall have the right to vote on the question of disapproval, it is silent with respect to voting procedure. We know of only two ways in which the Commission and other collegial bodies vote on matters—by notational voting (e.g. action jacket) and by vote in the course of a meeting. The Commission utilized both forms of decisionmaking at the time Congress was considering the amendments to section 331, and we presume that Congress intended that disapproval votes could occur in either manner.''

The reason for such voting is to allow all Commissioners a say in any business before the Commission—in other words, it enforces some minimal deliberation by the entire body, whether in writing or orally.

This advice was confirmed to me late today by the Inspector General. I continue, therefore, to direct the issuance of the press release as originally drafted.

Per Administrative Order 94–26, ''any Commissioner may request that an item, other than an outstanding action jacket, be placed on the agenda for a public meeting of the Commission.'' If any of my colleagues wish to do so, they may.

WASHINGTON, DC, *June 30, 1995.*

MEMORANDUM

To: Peg O'Laughlin.
From: Peter S. Watson.
Subject: Press Release for Inv. 332–TA–344.

I direct you to issue the attached press release immediately. The authority of me to direct the release of the same, over the objections of certain Commissioners; is contained in CO70–S–066, a copy of which I attach. As there has been no legally recognized override of my direction to you, the press release is to be issued without any delay.

Using the same authority, I direct you, or any subordinate of yours, not to release any other press release concerning this investigation unless authorized by me in advance, in writing.

Attachment.

ITC RELEASES STUDY ON THE ECONOMIC EFFECTS OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS AND SUSPENSION AGREEMENTS

The United States International Trade Commission (ITC) today released the results of its investigation Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements (Investigation No. 332–344). The report, which also reports on the economic effects of the dumping and subsidy practices that such orders and agreements address, was forwarded to U.S. Trade Representative Mickey Kantor, who requested study.

The investigation was originally requested by former USTR Carla Hills in January 1993. Ambassador Kantor resubmitted the request in June 1993 with a broadened investigative scope. The ITC instituted the investigation in July 1993. Two days of public hearings were held in September 1994 as part of the ITC's full investigative process.

The ITC report Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements (Investigation No. 332–344, USITC Publication No. xxxx, June 1995) can be ordered without charge by calling 202–205–1809 or by writing to the Office of the Secretary, Publications Branch, 500 E Street SW, Washington, DC 20436 (FAX: 202–205–2104).

The report will also be available on the ITC's Internet server at http://www.usitc.gov or ftp://ftp.usitc.gov.

WASHINGTON, DC, *July 12, 1995.*

MEMORANDUM

To: Director, Office of Public Affairs.
From: Vice Chairman Nuzum, Janet Nuzum, Commissioner Rohr, Commissioner Newquist, and, Commissioner Bragg.
Subject: Press Release in Inv. No. 332–344.

We are very concerned about the events of Friday, June 30, surrounding the issuance of a press release that had been disapproved by a majority of the Commission. You work for the entire Commission, and may not carry the instructions of a single Commissioner, including the Chairman, if those instructions conflict with the direction of a majority of Commissioners.

In the future, we expect that you will take actions consistent with the views of the Commission majority. If you encounter what you believe are unfair tactics or intimidation by a single Commissioner attempting to thwart the will of the majority, please advise the remaining Commissioners promptly and take no action until so authorized by a majority of Commissioners. We will not tolerate such behavior by our colleagues and have advised them that we will take appropriate action if it occurs. In the case of a career employee threatened with termination or other adverse personnel action for refusing to follow instructions that violate the will of a majority of the Commission, we note that the Chairman does not have the authority to terminate a supervisory employee at or above grade GS–15 without the express approval of a majority of the Commission. 19 U.S.C. 1331(a)(2)(A). In the case of other adverse personnel action, the Commission majority can and would take action to override any such adverse action under these circumstances.

Press releases concerning Commission determinations or reports require the approval of the Commission. Contrary to the Chairman's characterization in his memorandum CO70–S–066 (June 30, 1995), the issuance of such press releases is not an administrative decision subject to override by a majority of the Commission within the scope of 19 U.S.C. 1331(a)(1). Rather, as described in the attached memorandum from the General Counsel, the issuance of a press release regarding a Commission response to an Executive Branch request is a substantive matter involving external relations, and as such requires majority approval by the Commission. This is precisely the reason that such press releases are routinely circulated by the Office of Public Affairs to all Commissioners' offices—for approval by the Commission, not approval by the Chairman. The Commission did not approve the press release that you issued on June 30; in fact, a majority of Commissioners disapproved it, and instead indicated its approval of a revised press release. thus, issuance of that press release was improper.

WASHINGTON, DC, *July 12, 1995.*

MEMORANDUM

To: Chairman Watson.
From: Vice Chairman Nuzum, Commissioner Rohr, Commissioner Newquist, Commissioner Bragg.
Subject: Press Release in Inv. No. 332–344.

We strongly object to your action of Friday, June 30, in directing the issuance of a press release that had been disapproved by a majority of the Commission. We are disturbed by your heavy-handed tactics regarding issuance of a Commission press release, which before your actions of that Friday had been an uncomplicated collegial process. We also disagree with both the premise and substance of your memorandum CO70–S–066 (June 30, 1995).

The premise of your memorandum is incorrect: the issuance of a press release concerning a Commission study is not an administrative decision within the Chairman's authority under 19 U.S.C. 1331(a)(1), but rather a substantive matter involving external relations, for which Commission approval is required. In this case, a majority of Commissioners disapproved the press release in favor of a revised press release. Thus, when you directed the issuance of a press release that had been disapproved by a majority of the Commission, you acted outside of your authority.

Although this was not a case of an attempted override, you are incorrect in suggesting that a vote to override an administrative action by the Chairman can only be accomplished by means of an action jacket or by vote in the course of a public meeting. The courts have upheld various means of notational voting, including the separate expression of views to an office compiling the views. In this case, four Commissioners expressed their disapproval of the press release and their concurrence in a revised text, both to the Director of Public Affairs and to your office, orally and by means of electronic mail. This would have been sufficient for an override, had this been an override situation.

Your action further contravenes 19 U.S.C. 1331(a)(3) which states: ''No member of the Commission, in making public statements with respect to any policy matter for which the Commission has responsibility, shall represent himself as speaking for the Commission, or his views as being the views of the Commission, with respect to such matter except to the extent that the Commission has adopted the policy being expressed.''

You directed the issuance of a press release to the public with the knowledge that it did not represent the policy of the Commission. In fact, there was a majority consensus on what the policy of the Commission would be regarding this study and the public's access to its contents, but you did not agree with it. Instead, you made your own determination on what that policy should be, and you represented to the public that policy as being the Commission's position, knowing that it was not. Thus, in our view, you improperly represented yourself as speaking for the Commission by ordering the issuance of this release as a Commission document.

Your actions in this matter are rendered even more egregious by the ''management by intimidation'' tactics that you employed. It is highly inappropriate for the Chairman to threaten career government employees with adverse personnel action if they fail to follow his personal instructions that violate the clearly-expressed position of a majority of the Commission. We are very concerned about your use of such tactics, which place the entire Commission at risk for employee grievances, sexual harassment lawsuits, and resulting potential liability. To the extent that we are required to do so by law, we hereby serve notice that we do not condone such behavior and will not hesitate to take appropriate action should it occur in the future.

WASHINGTON, DC, *July 13, 1995.*

MEMORANDUM

To: Vice Chairman Nuzum, Commissioner Rohr, Commissioner Newquist, Commissioner Bragg.
From: Peter S. Watson.
Subject: CO69,64,67 & 71–S–001 dated July 12, 1995, Press Release in Inv. No. 332–344.

Thank you for the above-referenced joint Memorandum and the Memorandum GC-S-295 attached thereto, both dated July 12, 1995.

The submissions are interesting insofar as they reflect creative interpretation and writing. Yet, as entertaining as your submissions might be, I do not find them compelling.

Instead, I find the interpretation of Commission voting procedure the GC set forth in GC-L-047, and in which the IG orally concurred, to be compelling. Accordingly, I continue to be directed by it, and I will expect relevant Commission employees to do the same. For the same reason, the validity of my original action stands.

What I found less amusing was the assertion that my conduct ''place [note: not may place] the entire Commission at risk . . . sexual harassment lawsuit''. A separate communication will be forthcoming on this particularly serious, and totally groundless, charge.

WASHINGTON, DC, *July 14, 1995.*

MEMORANDUM

To: Chairman Peter Watson.

From: Vice Chairman Janet Nuzum, Commissioner David Rohr, Commissioner Don Newquist, Commissioner Lynn Bragg.

Subject: Clarification of our memo of July 12.

In light of your comments in CO70–S–070 of late yesterday, we wish to clarify our statements in the last paragraph of our memorandum of July 12. We were not, and are not, alleging that you have engaged in sexual harassment, and regret any inference of such. Our concern is the use of intimidating tactics and the possibility of grievances or lawsuits being filed by staff should such treatment persist. Obviously, we would not welcome such filings; besides the obvious legal costs, there would be serious repercussions to morale within the agency. We need a Chairman who leads by respect, not threat. We hope you agree. In bringing these concerns to your attention now, it is our sincere hope that you will appreciate these concerns and that we can all avoid this situation from escalating.

WASHINGTON, DC, *July 17, 1995.*

MEMORANDUM

To: Vice Chairman Janet Nuzum, Commissioner David Rohr, Commissioner Don Newquist, Commissioner Lynn Bragg.

From: Peter S. Watson.

Subject: CO69, 64, 67, & 71–S–003 of July 14, 1995.

I am in receipt of the captioned Memoranda. In respect to your actions that I took issue with in the last paragraph of my Memorandum CO70–S–070, knowledgeable counsel has advised me that, upon a review of the facts and applicable law, he believes actionable libel was committed by each of you (and perhaps others, yet to be identified) in respect to the same.

Adlai Stevenson once observed that it is often easier to fight for principles than to live up to them. I have no lessons to learn from those who would presume to piously school me while simultaneously publishing and disseminating the insidious and odious language referred to. I am, however, prepared to accept the unconditional retraction of, and apology for, the language that you issued as an end of your role in this most regrettable matter.

WASHINGTON, DC, *August 11, 1995.*

MEMORANDUM

To: The Commission.

From: Peter S. Watson.

Subject: Request for hiring authorizations.

The purpose of this memo is to seek comment on action I am considering on several requests for authorization to hire. As you know, I instituted a hiring freeze this past April (Administrative Order 95–13) that allows exceptions for demonstrated critical staffing needs. Because all hiring decisions made before the end of FY 95 will affect our budget planning for FY 96, I believe it is important that the Commission be advised of my decisions in that regard and given the opportunity to comment on the same.

I recently received a request (OP–S–028) dated July 21, 1995, from the Director of Operations regarding certain critical staffing needs. Attached for your review and information is Mr. Rogowsky's July 21, 1995 memorandum, other memoranda related to requests for hiring authority, and background information on the ITC's Cooperative Education Program.

Upon review of these memoranda and after numerous conversations with staff, I have decided that it is sagacious to authorize Office of Industries (OI) to convert three co-op employees to permanent status (authorization to hire into the co-op program granted 12/27/94 by this Office) and to authorize the Office of Information Systems (OIS) to announce and hire a computer specialist. I have concluded that it is in the ITC's best interest to fill these positions despite the possibility that the Commission's FY 96 appropriation may necessitate a reduction in force. At this time, I do not expect to grant any other hiring authorizations in FY 95.

We may estimate that the Commission will have approximately 425 full-time permanent employees on board at the close of FY 95 (if the aforementioned positions are filled). This number is based on several considerations including the assumption of a conservative attrition rate during FY 96. The last transaction report (AD–S–175 dated August 7, 1995) indicates that the Commission has approximately 423 funded permanent position filled. This number would change as follows: 1) the Commission is currently expecting to hire a Director of Administration and a Director of Economics (+2); 2) four more voluntary early retirements will occur by September 30th (−4); 3) replacing Andy Fontaine in OIS and approving the conversions of the three co-op employees would add four (+4). The net result under this scenario would be 425 permanent employees. I recognize that staffing in Commissioners' offices may fluctuate slightly as well.

It is, or course, useful to ask whether the Commission could sustain 425 full-time permanent employees under different budget scenarios. Based on Mark Garfinkel's estimations, if we are funded at $44.5 million, the Commission would be able to support 425 positions. If we are funded at $43.5 million, a furlough appears to be required to avoid a RIF. If, however, we are funded at $42.5 million or below, a RIF would become necessary even with a furlough. All of these scenarios assume a non-personnel expenditure reduction of 10% (not including rent) and some attrition in FY 96. We also expect some savings from reducing leased space to be realized in FY 96.[1]

With the departure of Andy Fontaine in OIS, there exists a critical need for additional technical computer support in that Office. The only other OIS employee that has a technical experience is Wally Fullerton. While OIS may be currently over-staffed, existing employees cannot be trained to fill Andy's position. It is important to note that the positions currently filled by Andy and Wally Fullerton would likely be placed in a separate ''competitive level'' from other staff, preventing those positions from competing in a RIF targeted at OIS.

The Office of Industries is operating at a level well below its current ceiling of 125 full-time permanent positions. The co-op conversions will still leave industries six positions below its ceiling and fill important or critical needs in OI divisions. I am mindful that a significant investment in the program and these particular employees has already been made. The Commission would be hiring highly productive individuals at a GS–9 level (average entry level is GS–11/3) who have already been trained. I note that precedent exists to convert co-op personnel during a hiring moratorium. Although the Commission does not have a legal obligation to hire co-op employees on a permanent basis, it makes sense to do so with successful candidates if we are going to continue to embrace the program.[2] It is my understanding that the Office of Personnel does not believe an extension of their temporary status is possible. Moreover, they would not have health insurance unless converted. Because the co-op employees, if converted, would likely be among the first to go in a RIF targeted at Industries, I would advise them in advance of their questionable job security.

Please provide me with your comments in writing by the close of business August 16, 1995.

WASHINGTON, DC, *August 17, 1995.*

MEMORANDUM

From: Peter S. Watson.

To: David B. Rohr.

Subject: Use of title: ''Senior Commissioner''.

I am in receipt of your Memorandum CO64–S–055 dated August 14, 1995. Upon a thorough review of the entire matter it is clear that the only relevant activity of disseminating misleading information relates to your persistent and ongoing public use of the non-existent title ''Senior Commissioner''. It is a matter of public record that you are the longest-serving Commissioner. However, it is obvious from the style and context of your use of the term ''Senior Commissioner'' that the same connotes a formal and legal title, and does not merely indicate relative length of tenure.

The correspondence attached to your Memorandum indicates that you have on at least three occasions formally and in writing represented yourself with the title ''Senior Commissioner''. The record reflects that you sent two letters to the *Financial Times* and one letter to *Inside U.S. Trade* using this non-existent title. This self-appointed title apparently misled the Letters Editor of the *Financial Times* who indeed addressed you with the title ''Senior Commissioner'' in his response to you dated August 1, 1995.

Please note that the term ''Senior Commissioner'' does not appear as a title designating a position in any statute relating to the Commission, or in any Commission regulation, directive or administrative order. See the attached OGC Memorandum LMS–S–041.

Your use of non-existent title is, at the least, a profound embarrassment to the Commission and especially to yourself. Moreover, I am concerned that any continuing use of the same might bring about a situation that results in a claim that use of the title in question is in violation of law. In this context one should note 18 USC Section 912 entitled ''Officer or employee of the United States'' which states:

''Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such. . . shall be fined under this title or imprisoned not more than three years, or both.''

In that context, the Supreme Court case of United States v. Barnow, 339 US 74, 60 1 Ed 155, 36 Ct 19 (1915) supports the obvious conclusion that 18 USC Section 912 is to be read broadly to include the false representation as to some office or employment which has no legal or actual existence. As the Court notes ''. . . the mischief is much the same. . . whether the pretender names an

existing or non-existing office or officer. . .''.

Since the entire Commission is now on notice of your continuing use of the said title and of possible claims arising from ongoing use thereof, I hereby direct you to immediately and permanently cease and desist in the use of the same.

WASHINGTON, DC, *August 1, 1995.*

MEMORANDUM

To: The Chairman.
From: The General Counsel.
Subject: ''Senior Commissioner''.

This is in response to your request for a review of whether the term ''Senior Commissioner'' appears as a title designating a position in any statute relating to the Commission, a Commission regulation, a directive, or an administrative order. We have found no such usage in statutes (both current provisions and those applicable in 1996) relating to the Commission, the Commission's Rules of Practice and Procedure, directives, or administrative orders.

WASHINGTON, DC, *August 22, 1995.*

To: Chairman Peter S. Watson.
From: David B. Rohr.
Subject: Your memorandum CO70–S–082 (use of term ''Senior Commissioner''); My memorandum CO64–S–055 (Title VII Study, Investigation No. 322–334).

I have seen your August 17, 1995 memorandum, CO70–S–082. I note that you take issue with my use of the term ''Senior Commissioner,'' but avoid the important matter raised by my memorandum CO64–S–055, the circulation of misleading information to the media on our Title VII investigation and report.

Your views regarding the use of the term ''Senior Commissioner,'' while interesting, reveal a surprisingly deficient research effort. Rather than merely parse the statute, you could have researched Commission custom and tradition, precedent that is important in matters such as these. Such research would have revealed the use of the title by other Commissioners at appropriate periods of their tenures. I recall, in those cases, the Senior Commissioners were accorded courtesy and respect by their colleagues, qualities that are, indeed, in short supply within the current Commission.

Also on the ''Senior Commissioner'' issue, I must point out that the letterhead I use clearly shows the statutorily designated title of ''Commissioner'' in the upper left hand corner. My use of the term ''Senior Commissioner'' is subordinate to this statutory designation. The term ''Senior'' in ''Senior Commissioner'' is merely an adjective, reflecting my seniority of tenure among the current Commissioners, a fact that even your memorandum acknowledges. Seniority of tenure is statutorily referred to in section 331(c)(1)(B) of the Tariff Act of 1930, as amended. I am merely using the title as it has been customarily used at this agency, and, in my case, perhaps, also as a reference to chronological age.

I am very disappointed that you have chosen to ignore the purpose of my memorandum CO64–S–055, which was to call your and our colleagues' attention to what I believe to be misleading publicity regarding the Title VII report. My concern is heightened by a second letter from the *Financial Times*, received on Friday, August 18 (copy attached), which states in paragraph 2 that ''Nancy Dunn's original story . . . was based upon *information supplied by the ITC.*'' (emphasis added). This suggests very strongly that the June document ''Release of U.S. International Trade Commission (ITC) Study on Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements,'' which included the $16 billion dollar cost figure, actually originated in and was disseminated from this agency with some sort of deliberate intent that it be mistaken for a *Commission-sponsored* document.

I think we all should be very concerned about the *appearance* (at least) of dishonesty and lack of integrity at the Commission if, indeed, such information originated here and was disseminated as though it were a Commission publication. I believe the information disseminated was, in fact, wrong. I documented this in my previous memorandum. Regardless, however, of how the information is characterized, it appears to have been disseminated as though it were from the Commission. This is the critical misrepresentation—not that the information was wrong—but that it was apparently deliberately misrepresented to be from the Commission.

Therefore, I renew my request for your thoughts and those of my colleagues about any actions that we might take to shed light on this case and assure that similar occurrences are precluded in the future. I will have to assume that continued silence by you or any other Commissioners is a lack of interest and concern.

I also renew my request for your communications with the *Financial Times* related to the Title VII study.

Mr. HATCH. Mr. President, I would just like to make a few comments with respect to Senator BIDEN'S remarks.

First, Senator BIDEN remarked that the process by which this bill was brought to the floor was problematic. I agree, the process was imperfect. I would rather have brought the authorizing language through the normal process. I would note, however, that we have already held more hearings on the authorizing language in this bill than the Judiciary Committee held on the entire 1994 crime bill. I think it's tough to argue about the process by which this bill was sent to the floor.

Second, I would like to address the so-called cuts to Federal law enforcement. Federal law enforcement is increased nearly 20 percent over 1995 levels. And I would note that since 1990, the only real cut to Federal law enforcement came in the President's first budget. Indeed, Congress actually restored the President's cuts.

For example, the Commerce, Justice, State conference report funds INS at an increased rate of $2,557,470,000.

The conference report provides over a 23.5-percent increase of fiscal year 1995 enacted levels. This increase provides funds to better control our borders and to stem illegal immigration.

The conference report provides funds for 800 new border patrol agents, 160 support personnel, and allows for better INS efficiency by redeploying interior agent positions to locations where the illegal immigration problem is most severe, the border.

The report also increases, by 1,400 positions, personnel dedicated to apprehend, locate, detain, and deport illegal aliens. Funding is also provided for over 2,800 detention beds and funding for antismuggling units.

Construction funds are provided for a triple fencing pilot project in southern California and funds to renovate a naval base for use as an INS satellite training facility.

Although the FBI does not receive quite the funding that I would like it to, it nevertheless receives a substantial increase over 1995.

The conference report represents over a 9.8-percent increase compared to fiscal year 1995 enacted levels. This increase provides resources enabling the FBI to address many projects and initiatives. These initiatives include: Personnel to staff the FBI Command Center; FBI legal attaches; safe streets task forces; FBI laboratory equipment and personnel; emergency response teams; upgraded databases on gangs; State, local, and Indian tribal law enforcement training; aviation maintenance and equipment; and wireless radio communications.

Construction funds are provided to renovate the FBI Command Center, to modernize the FBI Training Academy for use by Federal, State, and local law enforcement officers, and to begin work on a new FBI laboratory facility.

The conference report does not include a $29 million request relating to the full annualization of personnel that could have been hired in fiscal year 1995. In light of this hiring delay, however, the full personnel funding request is not necessary.

The report provides significant funding for U.S. attorneys offices as well. The $925,509,000 in the conference report represents over a 8.5-percent increase compared to the fiscal year 1995 enacted levels. Funding will support expedited deportation of denied asylum applicants, Federal victims counseling under the Violence against Women Act and increased demands for criminal prosecution and related activities.

The conference report also pays for security upgrades at U.S. attorneys offices, increased prosecutions of immigration laws, and funds to maintain attorney and support personnel levels for the prosecution of violent crime.

The DEA also received an increase in this bill, as it should. Drug use is the scourge of America, and it needs to be combated.

I fought for $60 million in trust fund money for the DEA during the Comprehensive Terrorism Prevention Act. I appreciate the Appropriations Committee taking my funding recommendation into account and providing DEA with $60 million of trust fund money.

The conference agreement provides over a 6.4-percent increase compared to fiscal year 1995 enacted levels. This provides to the DEA funds to improve its infrastructure and to better support investigative efforts.

The conference report includes program increases for the DEA's legal attache program, contract linguist support, advanced telephony, office automation, new agents for domestic heroin enforcement, mobile enforcement teams, and wireless radio communications.

The conference report does not include $15 million requested relating to

full annualization cost of personnel that could have been hired in fiscal year 1995. In light of this hiring delay, however, the full request personnel is not necessary.

The marshal's service is also adequately funded under the bill.

The conference report provides over a 12.9-percent increase compared to fiscal year enacted levels. This agreement provides funds to upgrade security at existing courthouses. Additionally, it provides additional security personnel, equipment, and communications funds for new and expanded courthouses.

As for today, we are trying to balance the Federal budget. The President's request for Federal law enforcement was not made in the context of balancing the Federal budget. He has the luxury of not balancing the budget.

I would certainly like to put more money back into Federal law enforcement, but where will that money come from?

I would ask if we do not balance the budget now, then when will we do it? Where should we take the money from?

The plain truth is, this bill is an increase to Federal law enforcement—an increase of 20 percent. The only budget passed here in recent years that cut Federal law enforcement was Fiscal Year 1994—The first full Clinton budget.

I would also like to comment on the Prison Grant Program Senator BIDEN mentioned. The Department of Justice has engaged in what might be charitably characterized as a campaign of misinformation about the prison grants provisions contained in the conference report. For example, while committee staff was working on the details of these provisions, the staff solicited and received informal comments from the Department's Office of Policy Development. The Department's comments contained numerous factual errors.

For example, I was quite surprised to receive a letter on behalf of the American Society of Corrections Administrators [ASCA] which parroted, errors and all, the Department's informal comments. These comments were apparently transmitted to corrections departments in every State. As the corrections director of my State of Utah, who serves as the legislative committee chairman of ASCA, noted in a followup memorandum to the association's executive director:

> These informal comments appear to be designed to sidetrack or block any congressional attempts to revise the 1994 crime bill in any way as the administration admittedly does not want any revisions to this Bill.

Recently, the Department has been circulating a series of spreadsheets containing data purporting to demonstrate how many of our States would suffer under the conference report as compared to the 1994 crime bill.

I ask unanimous consent that two of the analyses to be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. HATCH. The problem is, the numbers they use are unreliable, and are based on assumptions which are either unprovable, or simply untrue.

Indeed, an early Department criticism of this grant program stated that:

> [t]he way the funds are divided among qualified States prohibits the determination of grant amounts until all States applications are submitted and reviewed for compliance, and grant decisions are made.

Yet the figures being bandied about purport to be exactly such determinations.

There are several sets of numbers floating around. Apparently, the Department would run figures based on any assumption given them. In such a case, one really can use statistics to prove anything.

As just one example of the wildly varying sets of numbers released by the Department, under one set, my State of Utah would receive no money in fiscal year 1996, in another it would qualify for $2,324,958, and under a third scenario, Utah would receive $4,350,000. There is even a fourth analysis, under which Utah receives more than $7.3 million. I understand that a fifth analysis exists that gives Utah nearly $6 million. At this rate, eventually the Department will be reporting that all of the money will go to Utah. While my State, like each of our States, can certainly use prison grant assistance, this only highlights the spurious nature of these so-called analyses. Each of these analyses presumably are evaluating the same program.

As an example of assumptions used in the analyses that are simply untrue, the Department has repeatedly assumed that the grant program would be funded at a level of $500 million in fiscal year 1996. Yet the conference report which the Department purports to be evaluating clearly appropriates $617 million for the program.

Moreover, several of the Department's analyses assumes that all $500 million assumed appropriated pursuant to the 1994 crime bill would be applied directly to grants, while it assumes that under the conference report, only $300 million would be applied to grants. With such a starting assumption, it is hardly surprising that the analyses would conclude that States will receive less funding under the conference report.

The problem is, the premise simply isn't true. While the conference report admittedly utilizes $200 million of the $617.5 million appropriated to provide extra assistance to truth-in-sentencing States with high numbers of criminal aliens, there is absolutely no reason to believe that Congress would not do the same thing if no other change were made to the prison grant program. Implying otherwise to arrive at the desired result is disingenuous.

Some of the Department's results may be skewed on political grounds. Some of the results look peculiar indeed. For instance, one analysis purported to show which States would qualify for truth-in-sentencing grants, which would qualify for the less-lucrative general grants, and how much each State would receive under the conference report. Perhaps it is only a coincidence, but among the 28 general grant States in this analysis were 16 States that are represented in the Senate by 18 Senators who sit on either the Judiciary Committee or the Commerce, Justice, State Appropriations Subcommittee.

There is much more one could say about the numbers being bandied about by the Department of Justice on this issue. I will say no more about them, except to comment that this debate should involve policy arguments, not political scare tactics. The bottom line is that I believe that, if it is administered in an unbiased manner, all our States will receive a fair share of funds under this bill—a share that is proportionate to their crime rate and to their efforts to keep criminals off the streets. If a problem with the language does exist we will certainly fix it on the next round.

This bill is not perfect. But it has its priorities right, and devotes significantly more resources to the incarceration of violent prisoners than the fiscal year 1995 appropriation bill did. That bill appropriated only $24 million of an authorized $175 million. I believe that we can do better, and this conference report does so. I urge my colleagues to support it.

Furthermore, my friend from Delaware has also criticized the indeterminate sentencing provisions in the conference report.

I listened with great interest to my colleague's remarks. I am certain that it was not his intent to imply that this provision was designed to harm other States.

The truth is, 34 States practice some form of indeterminate sentencing. In many instances, violent prisoners can be kept in jail longer in these States than in determinate-sentencing States. For instance, in Delaware, even if they keep a prisoner in jail 10 years, he could be out in 9. In a system like Utah's, the same criminal could be sentenced to 5 to 15 years. Using criteria very similar to the Federal sentencing guidelines, the Utah Parole Board can keep the prisoner in for 5 more years.

This bill does nothing more than level the playing field for indeterminate States that keep violent thugs locked up.

EXHIBIT 1

CRIME SUBCOMMITTEES

[Grant amounts in thousands of dollars]

State	Current law grants	S. 3 grants	Truth in sentencing grants under the conference bill including that INA awards	Percent change, comparing awards under the conference bill to current law awards
Total for formula grants	$495,000	$495,000	$405,600	−0
Total awarded	495,000	$387,060	$195,707	−20
Alabama	5,571	0	NA	———
Alaska [1 2]	1,495	1,592	0	−100
Arizona	8,617	7,817	13,188	53
Arkansas	7,954	2,768	***	———
California	94,034	74,780	139,511	48
Colorado [3]	3,822	0	0	−100
Connecticut	3,038	2,819	5,102	58
Delaware [3]	1,632	1,914	0	−100
Dist. of Columbia	3,328	2,962	***	———
Florida	48,636	37,432	29,429	−37
Georgia	14,880	5,950	***	———
Hawaii [3]	1,273	1,758	0	−100
Idaho [2]	1,278	1,761	0	−100
Illinois	31,927	25,948	20,007	−37
Indiana	8,681	7,573	6,170	−28
Iowa	2,179	0	NA	———
Kansas	4,300	4,223	4,900	14
Kentucky [2]	3,422	0	0	−100
Louisiana	13,456	11,421	7,621	−43
Maine [1 2]	1,060	1,824	0	−100
Maryland [3]	8,176	6,907	0	−100
Massachusetts [3]	8,004	5,805	0	−100
Michigan	11,958	8,182	12,038	1
Minnesota	3,013	2,804	5,088	89
Mississippi	3,998	3,964	4,818	21
Missouri	11,516	9,975	3,874	−87
Montana [2]	1,040	1,618	0	−100
Nebraska	2,329	0	***	———
Nevada	4,188	1,584	4,873	16
New Hampshire	1,248	0	***	———
New Jersey	8,152	5,894	10,732	32
New Mexico	3,050	2,828	0	———
New York	54,953	44,051	34,924	−38
North Carolina	13,892	11,765	7,750	−44
North Dakota [1]	963	1,599	9,917	307
Ohio	18,313	13,088	8,488	−45
Oklahoma	3,884	0	***	———
Oregon [1]	5,048	2,847	0	−100
Pennsylvania	14,768	5,875	8,006	−48
Rhode Island	1,416	0	4,204	107
South Carolina	11,150	9,808	6,937	−18
South Dakota	1,040	0	***	———
Tennessee	6,617	4,071	***	———
Texas	21,224	13,762	***	———
Utah [3]	1,550	1,985	0	−100
Vermont	1,001	1,544	NA	———
Virginia	7,514	6,749	8,858	−22
Washington	8,312	7,577	***	———
West Virginia	1,382	0	***	———
Wisconsin [3]	2,797	0	0	−100
Wyoming	1,191	173	***	———

NA: Data are not available to determine eligibility for conference bill truth in sentencing grant awards for Alabama, Iowa, and Vermont.

———No grant is made under S.3, hence percent difference is meaningless; or it is unknown if the State is eligible for a general grant under the conference bill.

*Totals include projected 1998 award funds based on estimated 1995 distributions for Truth in Sentencing and the Immigration and Nationality Act (TIS/INA) diverted from prison grants under Section 20110(b) and does not reflect direct SCAAP appropriations.

Dollar amounts listed indicate the estimated award for truth in sentencing grants. Zeroes indicate that the state failed to meet the necessary requirements as stated in the conference bill for both general grant awards and truth in sentencing grant awards.

***State is ineligible for truth-in-sentencing grant awards under the provisions of the conference bill. Sufficient data are not available to determine eligibility for conference bill general grant awards at this time.

Assumptions

Under all scenarios, total appropriation is $500,000,000.

Current Law (Column 1): Current law assumes all formula grant funds are awarded because of "reverter clause." One percent for administrative costs has been taken off the top, but none for technical assistance or discretionary funding.

S.3 Grants (Column 2): Under S.3, 1% is taken off the top for administrative costs.

Truth in Sentencing Grants Under the Conference Bill (Column 3):

1. The Attorney General uses no program funds for housing Federal prisoners in non-Federal institutions.

2. From the initial $500 million appropriated for truth in sentencing and general grants, Section 20109(a)(1) allocates 0.3% ($1.5 million) for payments for the incarceration of offenders under Indian tribe jurisdiction. Administrative costs are set at one percent ($5 million) to be comparable with other formulas.

Direct SCAAP appropriations comprises $300,000,000. The conference bill requires that the difference between the initial authorization for prison grants ($500 million) and direct SCAAP appropriations ($300 million) be diverted from prison grants to awards under the Immigration and Nationality Act.

Footnotes From the Table

[1] These states are expected to be ineligible for both types of prison grants under the conference bill—general grants and truth in sentencing grants. The states are not eligible for general grants because they fail to meet the parameters established by Section 20103(a)(2), which requires that states "increase[d] the average prison time actually to be served in prison" since 1993 for part 1 violent crimes. According to the 1995 Bureau of Justice Statistics report, "Violent Offenders in State Prison: Sentences and Time Served," (p.4) the average minimum time for violent offenders to serve before release has not increased since 1993 for the indicated states.

[2] These states are expected to be ineligible for both types of prison grants under the conference bill—general grants and truth in sentencing grants. The states are not eligible for general grants because they fail to meet the parameters established by Section 20103(a)(3), which requires that states "increase[d] the average percentage of time of the sentence to be actually served in prison" since 1993 for part 1 violent crimes. The above BJS report indicates that the percent of the average maximum sentence to be served for violent offenses has not increased since 1993 for these states.

[3] These states are expected to be ineligible for both types of prison grants under the conference bill—general grants and truth in sentencing grants. The states are not eligible for general grants because they fail to meet the parameters established by Section 20103(b)(2)(B), which requires that states "increase[d] the average time served in the state for the offenses of murder, rape, and robbery" since 1993. The above BJS report indicates that the average time served for violent offenses has not increased above 1993 levels for the indicated states.

COMPARISON OF POTENTIAL STATE AWARDS UNDER CURRENT CRIME ACT PRISON GRANTS, S. 3, AND NOVEMBER 28 CONFERENCE BILL AT $500 MILLION—PRELIMINARY

[Grant amounts in thousands of dollars]

State	Current law grants	S. 3 grants	Truth in sentencing grants under the conference bill*	TIS/INA awards** (1998 projection)	Percent difference*			Percent difference excluding TIS/INA grants	
					Compared to current law		Conference bill + TIS/INA vs. S. 3		
					S. 3 grants	Conference bill + TIS/INA		Conference bill vs. current law	Conference bill vs. S. 3
Total for formula grants	$495,000	$495,000	$293,500	$200,000	−0	−0	−0	−41	−41
Total awarded	495,000	367,060	195,765	200,000	−26	−20	8	−60	−47
Alabama	5,671	0	NA	.....	———	———	———	———	———
Alaska [1 2]	1,405	1,802	0	.....	27	100	100	100	100
Arizona	8,617	7,617	6,085	7,000	−12	52	72	−30	−20
Arkansas	2,954	2,769	***	.....	−6	———	———	———	———
California	94,034	74,780	29,979	108,000	−20	47	85	−68	−60
Colorado [3]	3,822	0	0	.....	−100	−100	0	−100	0
Connecticut	3,038	2,819	5,117	.....	−7	68	81	68	81
Delaware [2]	1,532	1,914	0	.....	25	−100	−100	−100	−100
Dist. of Columbia	3,326	2,962	***	.....	−11	———	———	———	———
Florida	46,535	37,432	16,625	12,000	−20	−38	−24	−64	−56
Georgia	14,680	5,950	***	.....	−59	———	———	———	———
Hawaii [3]	1,273	1,758	0	.....	38	−100	−100	−100	−100
Idaho [2]	1,279	1,761	0	.....	38	−100	−100	−100	−100
Illnois	31,927	25,946	12,744	7,000	−19	−38	−24	−60	−51
Indiana	8,561	7,573	6,180	.....	−12	−28	−18	−28	−18
Iowa	2,179	0	NA	.....	−100	———	———	———	———
Kansas	4,300	4,223	4,897	.....	−2	14	16	14	16
Kentucky [2]	3,422	0	0	.....	−100	−100	0	−100	0
Louisiana	13,455	11,421	7,307	.....	−15	−46	−36	−46	−36
Maine [1 2]	1,060	1,624	0	.....	55	−100	−100	−100	−100
Maryland [3]	8,175	5,907	0	.....	−28	−100	−100	−100	−100
Massachusetts [3]	8,004	5,805	0	.....	−27	−100	−100	−100	−100
Michigan	11,958	8,182	9,659	2,000	−32	−3	42	−19	18
Minnesota	3,013	2,804	5,122	.....	−7	70	83	70	83
Mississippi	3,996	3,984	4,838	.....	0	21	21	21	21
Missouri	11,616	9,975	6,964	.....	−14	−40	−30	−40	−30
Montana [2]	1,040	1,618	0	.....	56	−100	−100	−100	−100
Nebraska	2,329	0	***	.....	−100	———	———	———	———
Nevada	4,188	1,564	4,853	.....	−63	16	210	16	210
New Hampshire	1,248	0	***	.....	−100	———	———	———	———
New Jersey	8,162	5,894	7,737	2,800	−28	29	79	−5	31
New Mexico	3,050	2,826	***	.....	−7	———	———	———	———
New York	54,953	44,051	18,873	15,000	−20	−38	−23	−66	−57
North Carolina	13,892	11,765	7,565	.....	−15	−46	−36	−46	−36
North Dakota	963	1,599	3,956	.....	66	311	147	311	147
Ohio	16,313	13,668	8,287	.....	−16	−49	−39	−49	−39
Oklahoma	3,884	0	***	.....	−100	———	———	———	———
Oregon [2]	5,046	2,847	0	.....	−44	−100	−100	−100	−100
Pennsylvania	14,756	5,975	7,901	.....	−60	−46	32	−46	32
Rhode Island	1,415	0	4,221	.....	———	198	100	198	100
South Carolina	11,150	9,608	8,767	.....	−14	−39	−30	−39	−30
South Dakota	1,040	0	***	.....	———	———	———	———	———
Tennessee	6,617	4,971	***	.....	−25	———	———	———	———
Texas	21,224	13,752	***	.....	−35	———	———	———	———
Utah	1,650	1,985	4,350	.....	20	164	119	164	119
Vermont	1,001	1,544	NA	.....	54	———	———	———	———
Virginia	7,514	6,749	5,778	.....	−10	−23	−14	−23	−14
Washington	8,312	7,377	***	.....	−11	———	———	———	———
West Virginia	1,302	0	***	.....	−100	———	———	———	———

COMPARISON OF POTENTIAL STATE AWARDS UNDER CURRENT CRIME ACT PRISON GRANTS, S. 3, AND NOVEMBER 28 CONFERENCE BILL AT $500 MILLION—PRELIMINARY—Continued

[Grant amounts in thousands of dollars]

State	Current law grants	S. 3 grants	Truth in sentencing grants under the conference bill*	TIS/INA awards** (1998 projection)	Percent difference*			Percent difference excluding TIS/INA grants	
					Compared to current law		Conference bill + TIS/INA vs. S. 3		
					S. 3 grants	Conference bill + TIS/INA		Conference bill vs. current law	Conference bill vs. S. 3
Wisconsin [3]	2,797	0	0		−100	−100	0	−100	0
Wyoming	1,191	173	***		−85	——	——	——	——

NA: Data are not available to determine eligibility for conference bill truth in sentencing grant awards for Alabama, Iowa, and Vermont.

*Dollar amounts listed indicates the estimated award for truth in sentencing grants. Zeroes indicate that the state failed to meet the necessary requirements as stated in the conference bill for both general grant awards and truth in sentencing grant awards.

**Totals include projected 1996 award funds based on estimated 1995 distributions for Truth in Sentencing and the Immigration and Nationality Act (TIS/INA) diverted from prison grants under Section 20110 (b) and does not reflect direct SCAA appropriations.

***State is ineligible for truth-in-sentencing grant awards under the provisions of the conference bill. Sufficient data are not available to determine eligibility for conference bill general grant awards at this time.

——No grant is made under S. 3, hence percent difference is meaningless: or it is unknown if the State is eligible for a general grant under the conference bill.

See next page for assumptions and notes.

Assumptions:

Under all scenarios, total appropriation is $617,000,000.

Current Law (Column 1): Current law assumes all formula grant funds are awarded because of ''reverter clause.'' One percent for administrative costs has been taken off the top, but none for technical assistance or discretionary funding.

S. 3 Grants (Column 2): Under S. 3, 1% is taken off the top for administrative costs.

Truth in Sentencing Grants Under the Conference Bill (Column 3):

1. The Attorney General uses no program funds for housing Federal prisoners in non-Federal Institutions.

2. From the initial $500 million appropriated for truth in sentencing and general grants, Section 20109(a)(1) allocates 0.3% ($1.5 million) for payments for the incarceration of offenders under Indian tribe jurisdiction. Administrative costs are set at one percent ($5 million) to be comparable with other formulas.

Direct SCAAP appropriations comprise $300,000,000. The conference bill requires that the difference between the initial authorization ($500 million) and direct SCAAP appropriations ($300 million) be diverted to awards under the Immigration and Nationality Act/TIS provision.

Truth in Sentencing/Immigration and Nationality Act Awards (Column 4):

These states fulfill truth in sentencing provisions and are therefore eligible to receive additional funds under the Immigration and Nationality Act.

Footnotes from the Table:

[1] These states are expected to be ineligible for both types of prison grants under the conference bill—general grants and truth in sentencing grants. The states are not eligible for general grants because they fail to meet the parameters established by Section 20103(a)(2), which requires that states ''increase[d] the average prison time actually to be served in prison'' since 1993 for part 1 violent crimes. According to the 1995 Bureau of Justice Statistics report, ''Violent Offenders in State Prison: Sentences and Time Served,'' (p.4) the average minimum time for violent offenders to serve before release has not increased since 1993 for the indicated states.

[2] These states are expected to be ineligible for both types of prison grants under the conference bill—general grant and truth in sentencing grants. The states are not eligible for general grants because they fail to meet the parameters established by Section 20103(a)(3), which requires that states ''increase[d] the average percentage of time of the sentence to be actually served in prison'' since 1993 for part 1 violent crimes. The above BJS report indicates that the percent of the average maximum sentence to be served for violent offenses has not increased since 1993 for these states.

[3] These states are expected to be ineligible for both types of prison grants under the conference bill—general grants and truth in sentencing grants. The states are not eligible for general grants because they fail to meet the parameters established by Section 20103(b)(2)(B), which requires that states ''increase[d] the average time served in the state for the offenses of murder, rape, and robbery'' since 1993. The above BJS report indicates that the average time served for violent offenses has not increased above 1993 levels for the indicated states.

Mr. COHEN. Mr. President, when this bill was originally on the Senate floor, and Senator DOMENICI offered his amendment to preserve the Legal Services Corporation, I supported Senator DOMENICI's effort but expressed some grave reservations about the restrictions that were being placed on recipients of LSC funds.

I hoped that the conference might come to understand the folly of these restrictions and report out a bill that would provide the LSC with sufficient funds to fulfill its important mission of ensuring that our most needy citizens have equal access to our system of justice—a promise written in stone on the front of the U.S. Supreme Court.

Unfortunately, the product of the conference with respect to the LSC is entirely inadequate.

Under the conference report, LSC funding would be cut from $400 million in fiscal year 95 to $278 million, a reduction of over 30 percent.

The bill would place 19 separate restrictions on recipients of LSC funds. These restrictions control not only how legal services organizations may use their Federal grants but also how they may use funds derived from the States, bar associations, and private donations.

Under this bill, legal services organizations and the skilled attorneys that work for them are precluded from testifying at a legislative hearing, commenting on a public rulemaking, or communicating with Federal, State, or local officials that operate programs for the indigent.

At a time when we are authorizing the States to operate welfare, Medicaid, and a host of other programs with less Federal intervention, we are depriving them of the advice and expertise of some of the most knowledgable poverty law attorneys in the country.

And, at a time when we are trying to reduce the intrusiveness of the Federal Government, we are imposing new Federal mandates on how private organizations—such as Maine's Pine Tree Legal Assistance and the Voluteer Lawyer Project—may use their own money.

The bill also fails to provide the Corporation with sufficient administrative funds to properly perform the competitive bidding and monitoring requirements that this bill creates.

I realize that there are many in the other body that wish to eliminate LSC in its entirety and see these measures as the first steps in that process. But there were over 60 votes in the Senate to preserve LSC and those votes should not be ignored.

I understand that the President intends to veto this legislation, so I expect that the issue of the funding and structure of LSC will be before this body again. I agree that LSC must share in the budget belt-tightening that is being experienced throughout the entire Government. And some new restrictions may be in order to ensure that LSC funds are targeted at the most critical needs of our indigent citizens.

But in the end, the Corporation must be provided funds sufficient to guarantee the continued operation of its programs and restrictions that hinder legal services organizations from promoting the interests of their clients must be eased. I will continue to work toward this result with the President and members of the Appropriations Committee on both sides of the aisle.

Mr. CAMPBELL. Mr. President, I would like to make a few brief comments on the conference report to H.R. 2076, the fiscal year 1996 spending bill for the Department of Commerce, State, Justice and related agencies.

I appreciate the diligent work of the respective House and Senate subcommittees to craft a conference report that seeks to maximize funding that will be allocated to the Department of Commerce, Department of State, the Department of Justice and the 18 other agencies included in this appropriations measure. It has been made clear from the development of H.R. 2076, that this measure would be subject to a Presidential veto. Today, as we debate this conference report it is apparent the President will follow through to veto this measure.

While I will support the conference agreement today, because it contains vital funding for very meritorious programs, I want to express my serious reservations with legislative language included in this measure that may seriously undermine the ability of law enforcement officials to effectively address crime in their respective States and cities.

As you know, I have been a strong supporter of the 100,000 cops program. This program, which passed with widespread bipartisan support as part of the 1993 crime bill. In that bill, Congress authorized funds to go directly to where the problem exists: that is the shortage of law enforcement personnel. This important program would be administered in a block grant under the legislation now being considered.

I am concerned that scarce dollars would be spend by some mayors on anything that can arguably be construed as law enforcement under a block granting scheme.

Also, I want to once again, reiterate my strong support for drug-court funding. In Denver, our drug court is a tough, law-enforcement oriented solution to society's drug problem. It has already begun to show success. It would be a mistake to eliminate this valuable tool for enforcement of our drug laws.

Understanding this bill will be vetoed by the President, I look forward to working with my colleagues to reach a middle ground in a subsequent appropriations bill.

Mr. COVERDELL. Mr. President, as the Senate considers the 1996 Commerce, Justice, and State appropriations conference report, I wanted to focus my colleagues' attention on the need to obligate substantial resources to combat the devastating increase in drug use among our children. Let me take this opportunity to describe one such effort.

In its annual survey of drug use by junior and senior high school students, the National Parents' Resource Institute for Drug Education [PRIDE] reported significant increases among teenagers for crack, cocaine, heroin, LSD, non-LSD hallucinogens, inhalants, and marijuana.

The PRIDE survey found that 33 percent of our high school seniors smoked marijuana in the past year, and 21 percent smoked monthly. Since the 1990–91 school year, annual reported use of marijuana in junior high school has risen 111 percent and has risen 67 percent in high school. There has been an alarming 36-percent increase in cocaine use by high school students since 1991–92, which was the period of lowest use in recent years. If we allow this trend to continue, teenage drug use will reach the U.S. all-time high of 54 percent, in less than 2 years. Let me restate, we will have more kids in high school who are on drugs than are not.

Despite these alarming trends, surveyed teenagers report only one-third of nearly 200,000 parents talk to their children frequently about the dangers of drug use. Yet the study shows that parental involvement could significantly deter drug use, even among older teenagers. Among high school students whose parents never talk about drugs, 34 percent smoked marijuana, versus 24 percent who said their parents speak about drugs a lot—a relative decrease of 29 percent. Drug use declines sharply among students whose parents frequently discuss drugs with them.

According to the president of PRIDE, Dr. Thomas J. Gleaton, the most effective drug prevention program in the world—parental intervention—is used far less than we think.

Since last March, PRIDE has devoted a great deal of attention to the question of how we, as a nation, can again capture the necessary level of parental involvement that successfully drove down teenage drug use in the previous two decades. By active involvement in the antidrug movement, parents were successful in driving down drug use by teenagers from the all-time high of 54 percent in 1979 to just 27 percent by 1992.

PRIDE has proposed a grassroots plan focused on a renewed parent movement in the fight against teenage drug use. The goal of this effort is to educate parents and involve them in programs that will prevent and reduce drug abuse by their children. PRIDE's volunteer-based approach will allow parents to create a drug prevention program most suitable to the needs of their community. I feel strongly that the best solutions are found closest to the problem, which in this case, is the local level. I believe PRIDE's proposal is a valiant step toward preventing drug use among our Nation's most vulnerable targets—our children. Putting an end to drug use among teenagers is a key component in winning the war against the drugs.

In closing, I urge the Attorney General to ensure that adequate resources are available to combat teenage drug use. In addition, I encourage the Department of Justice to make available discretionary grant funds through justice assistance and juvenile justice programs to support PRIDE's efforts to establish programs involving parents in our fight against teenage drug use.

Mr. LAUTENBERG. Mr. President, I rise in opposition to this conference report.

Mr. President, before I discuss my views on the conference report, let me begin by commending the distinguished Senator from New Hampshire, Senator GREGG, and the distinguished Senator from North Carolina, Senator HOLLINGS, for their hard work on this legislation. Senator GREGG in particular has managed to get up to speed on the intricacies of this legislation after Senator GRAMM left the subcommittee. That's not an easy thing to do, and he deserves real credit for his efforts. Similarly, Senator HOLLINGS, as always, has demonstrated his expertise on the programs covered in this legislation, and he also deserves credit for his work.

Mr. President, given the hard work of these two Senators, I rise to oppose the conference report with some reluctance. However, I have serious concerns with the final product, and so I am left with little choice.

I am especially concerned about the complete elimination of funding for the Community Policing Program.

Mr. President, this body previously voted to fully fund the COPS Program reaffirming our commitment to putting 100,000 new police officers on the streets.

Unfortunately, we apparently have now backed down in the fact of opposition from the House. And this conference report would completely eliminate the COPS Program.

Mr. President, the Community Policing Program is a program that works. I can attest to that because I've seen it first hand. A few months ago, I was in Plainfield, NJ, and I saw what the Community Policing Program has meant for that town. The results have been dramatic.

Crime has been reduced. The relations between the police and the community have improved. And the whole city has benefited.

I've seen similar results in several New Jersey cities.

Mr. President, community policing works largely by preventing crime before it happens. Under the program, officers are encouraged to get out of their cars and onto the streets. There, they go to know the people of the community and their problems. In the process, they also gain citizens' trust and confidence.

The improved relationship between the police and their community has several payoffs. Perhaps most importantly, officers are able to identify and resolve conflicts early on—before they erupt into violence. Community police officers often know when tensions are building between rival gangs, or between a husband and a wife. And they can take steps to defuse these tensions in a constructive way.

By contrast, officers who don't get out of their patrol car may have no idea that violence is about to erupt until it's too late to do anything about it—or after the fact.

Community policing also makes citizens feel more safe. People tell me that it's very reassuring to see an officer walking the beat, available to help out if a problem arises. This increased sense of security can make a huge difference in the quality of peoples' lives. It allows them to go out at night, to take their kids for a walk in the park, to get to know their neighbors.

These are the kind of things that Americans should be able to take for granted. But they can't in today's climate of fear.

Another benefit of community policing is that it helps to involve the police in the daily lives of young people.

As you know, Mr. President, many teenagers today are growing up without fathers, and without responsible adults who can set them on the right course. Community policing officers can help fill that void. Although no policeman can substitute for a father, officers can help instill a sense of values, and can lead young people away from lives of crime and drugs.

But they can't do that if they're just sitting in their patrol cars, isolated from the community.

Mr. President, a broad range of law enforcement officials have recognized the value of community policing. In fact, a national poll found that a clear majority of chiefs and sheriffs surveyed called community policing the most cost-effective strategy for fighting crime.

In addition, national law enforcement organizations, including the Major Cities Chiefs of Police, the National Association of Police Organizations, the National Sheriffs' Association, and the Fraternal Order of Police,

all have come out strongly in support of the COPS Program. These are the people at the front lines in the battle against crime. And they know what works.

Mr. President, it would be a serious mistake to eliminate the Community Policing Program in favor of a whole new bureaucratic mechanism that does not now exist, and has no track record of success.

Unlike the Community Policing Program, which was worked out in lengthy negotiations during last year's crime bill debate, the new block grant program in this bill hasn't been subject to serious review. We don't know whether it will work.

There also are serious questions about how State politicians will use this money. Under the terms of the block grant, Governors could choose to fund building code inspectors, parking meters, bullhorns, or even carpets for courthouses. They wouldn't have to hire a single new police officer.

Mr. President, there is no need to deal with these kind of questions, and the variety of other problems that are involved in creating a whole new program. The Community Policing Program has an established track record. It's been up and running for some time. And we know it works. I've seen the results myself. And I am sure many of my colleagues have seen similar successes.

So, Mr. President, I hope my colleagues will not abandon our national commitment to providing 100,000 new police officers. Community policing will make a real difference in reducing crime, if we stick to it. Yet this conference report proposes to eliminate the program altogether. And that would be a serious mistake.

Mr. President, another serious problem with this conference report is that it virtually eliminates crime prevention programs.

Mr. President, it's a cliche, but it's also true that an ounce of prevention is worth a pound of cure. And there has never been a more urgent need to help ensure that young people, especially, are given positive alternatives to lives of crime. Arrest rates for violent crimes by juveniles have risen by nearly 100 percent in the last decade. And these arrest rates are expected to double again in the next 15 years.

We need to do more to reverse these trends. And yet the conference report largely ignores this need.

I urge my colleagues to reject this conference report.

Mr. LIEBERMAN. Mr. President, I rise today to express my deep concern over the cuts in programs in the Commerce, State, Justice appropriations conference report.

CUTS IN COMMERCE PROGRAMS

Let me turn first to cuts in the Commerce portion of the bill. Most of us agree that we must balance the budget, but let us avoid the trap of being penny wise and pound foolish in this process of making cutbacks. In our efforts to effectively balance the budget, we should make smart cuts, and protect investments that will improve our quality of life, will provide high-wage, high-skilled salaries and will maintain U.S. leadership in the global economic marketplace. Afterall, these are the reasons we are trying to balance the budget in the first place.

BACKGROUND OF OVERALL TECHNOLOGY CUTS

In a recent talk to directors of Federal laboratories, the House Speaker listed three priorities for his view of our technology future: We should be on the cutting edge of defense and knowledge, We should systematically bring science to Government, and we should maximize the speed by which we move from science to product. He is right about this agenda. Even though it is singled out in this bill for elimination, Commerce's Advanced Technology Programs [ATP] fits the Speaker's agenda perfectly. This cut comes against a background of deep R&D Program cuts this year. The American Association for the Advancement of Science estimates that Congress' current course will cut Federal R&D by 30 percent.

Three recent comprehensive technology reports explain the need for Government involvement in technology investment such as the ATP program. An October National Institute of Science and Technology planning report in October entitled, ''Technology and Economic Growth: Implications for Federal Policy,'' points out that ''technology is the single most important determining factor of long-term econmic growth''; it demonstrates why Government investment in science and technology programs leverage similar investments in the private sector.

The Council of Economic Advisers has just released a report entitled, ''Supporting Research and Development to Promote Economic Growth: The Federal Government's Role,'' and it tells us just how damaging cuts in R&D will be. In November, the administration released a white paper on technology and economic growth that underscores this point. It reviews the role that Government has played on a bipartisan basis in supporting innovative technologies that create high-wage job markets, to provide our citizens with higher standards of living and to maintain U.S. leadership in the global economy.

The CEA report points out that U.S. Government support in research and development has yielded a rich history of innovation, from Samuel Morse's original telegraph line in 1842, to discovery of DNA and the creation of Internet. Investments in research and development have high rates of economic return for the Government—a stunning 50 percent social return and a 20 to 30 percent private rate of return.

The effect of Government technology investment on the American people is clearly illustrated in the aerospace industry. Even as recently as the late 1980's, Federal investments were as high as 80 percent of the total for aerospace research and development. Today, this industry is a critical U.S. economic sector, employing many thousands of Americans, and exporting billions of dollars worth of American-made products. Aerospace R&D investments have brought a huge rate of return for the taxpayer. This sector illustrates that investing in innovative technologies has been a keystone to the Nation's economic growth.

Until now, Presidential and Congressional support for Government investment in R&D has been bipartisan. In 1960, President Eisenhower announced in his State of the Union Message,

> We now stand in the vestibule of a vast new technological age—one that, despite its capacity for human destruction, has an equal capacity to make poverty and human misery obsolete. If our efforts are wisely directed—and if our unremitting efforts for dependable peace begin to attain some success—we can surely become participants in creating an age characterized by justice and rising levels of human well-being.

President Eisenhower understood science and technology and its relationship to Government. He supported a great expansion of R&D investment including the growth of the research university and the creation of ARPA, the great Defense Department R&D innovator. In 1961, Eisenhower noted that:

> The free university, historically the fountainhead of free ideas and scientific discovery, has experienced a revolution in the conduct of research. Partly because of the huge costs involved, a Government contract becomes virtually a substitute for intellectual curiosity.

In other words, the old stereotype of the brilliant tinkerer, laboring away in his basement, making a great technological breakthrough with no help from the outside world is an engaging, but out-of-date image today. Individual inventors, or even private businesses acting on their own, do not have the resources necessary to keep America at the forefront of technological innovation.

I am concerned, however, that the majority in Congress this year is now reversing their historic course and now plans to sacrifice the techology investment that made the United States a global economic leader. I admire the goal of balancing the budget in 7 years, and I have supported legislation to reach that goal. But I do not support some of the means; including this conference report, that the majority has chosen to reach that end. Cutting technology investment is akin to throwing the lifeboats overboard to reduce the ballast of a rapidly sinking ship. Cut technology funding, and you cut the heart out of our efforts to promote economic growth, trade, job creation. Yet that is what the majority's budget will do by slashing research and development funding by one-third by the year 2002, at a time when other industrialized countries—our competitors—are increasing their technology budgets.

Some like to say that Government should run more like a private business. Well, imagine you are the head of AT&T, and you see MCI pouring millions into R&D. Do you say, ''Great. Let us cut our R&D budget, and that will improve our bottom line?'' If you did that, the board of directors would have your head.

The Japanese Government, one of our chief competitors, intends to double its technology investment in the coming years. And we are going to respond to that challenge by cutting our technology investment? I fear that these discrepancies in investing trends will do real harm to U.S. exports and to our economy as a whole. According to the Office of Technology Policy, the American high-technology trade balance, after being a key factor for years in U.S. economic growth, is now deteriorating rapidly, with an abrupt shift from a surplus of $26.6 billion in 1991 to a deficit of $4.3 billion in 1994. With severe budget cuts in technology and a diminishing trade performance, America will loose its footing on the high-technology global market ladder.

In his book, ''Blindside: Why Japan Is Still on Track to Overtake the U.S. by the Year 2000,'' Eamonn Singleton lists technologies that have been commercialized and are the chokepoints that Japanese industries now control in the electronics industry: flat panel displays, compact disc players and CD-ROM drives, notebook computers, semiconductor materials and equipment, cellular phones and pagers, fax machines and laser printers. A Japanese technology expert notes that the ''silicon revolution promises as big a transformation in the world economy as all of the other technologies developed since the 18th century put together.'' These are all technologies where the initial advances originated in the United States. Outside of the electronics field, Japan's technology advantage has enabled it to take a lead in a long series of economic sectors including auto parts, auto industry manufacturing machinery, molds and dyes, cameras, medical and scientific instruments, musical instruments, and construction equipment. This is not the moment to cut back on U.S. R&D.

The Council of Economic Advisers report reveals that the United States has fallen behind Japan and Germany in its cumulative nondefense research expenditures as a percentage of GDP for the past 20 years. More serious, the CEA study shows that the United States by the end of the decade will also be behind Japan in actual annual funding spent on nondefense R&D. This is a dangerous development in an area where the United States has long relied on a comparative economic advantage. Though we are leaders in telecommunications, semiconductors, and computers now, we well may soon stand behind other industrial countries if they continue to put their money where the jobs are and if we begin to pull our money back.

Historically, the private sector moves in the same direction as the Government sector with regard to R&D investments. Trends in Federal research and development support cycles correlate closely with private R&D; as Federal investment expands, the private sector responds with a subsequent increase in R&D spending. So the Federal investments leverage private sector investments. The CEA study warns, therefore, that the upcoming cut in Federal R&D will likely lead to corresponding reductions in private sector R&D.

The administration's white paper on R&D investments points out that ''the Republican budget puts American technological and economic leadership at grave risk'' and ''this is exactly the wrong time to cut investment in R&D.'' The white paper argues that we must protect key investments in research, education and technology while balancing the budget.

ATP

In 1991, Alan Bromley, the science adviser during the Bush administration, developed a list of critical long-term, high-risk technologies which should receive Government and industry attention and support. From these initial ideas, ATP was established to provide a cost-sharing mechanism to support new, world-class products, services and industrial processes projects valuable to Government users, that would also stimulate U.S. economic growth. These industry-government partnerships evolve from industry-proposed ideas for viable new, innovative technologies which are managed by industry, involve significant university participation and are cost shared with NIST. ATP equals industry-driven, fair competition, partnership, and evaluation. ATP does not fund product development initiatives. Tax credits are not a substitute for the ATP. Without government cooperation, these types of precompetitive projects would otherwise be ignored or developed too slowly to effectively compete in the global environment.

ATP programs have already begun to establish niches in the marketplace creating new jobs for Americans, including the small- to medium-sized business sectors. For example, in my State of Connecticut, CuraGen Corp. has received two 3-year, ATP awards in 1994 for unique ideas that are designed to combat serious illness as well as to diagnose and prevent disease. Edward Rothberg, the chair of the board of Laticrete International, Inc.: wrote to me saying that

> The greatest benefit of this (ATP) program is the development by CuraGen . . . to provide the means to attack and eventually cure serious illnesses that result in a high number of deaths from cancer, and hundreds of billions of dollars spent for drugs to control illness. A few million invested in research to prevent illnesses will save a hundredfold the investment in drugs that only maintain, but do not cure them.

According to Gregory Went, the vice president of CuraGen, these two awards have ''created over 19 new jobs during 1995 directly related to the ATP programs, with 15 in Connecticut, and will create scores of additional jobs in Connecticut and the United States.'' Since the R&D will provide a foundation for products that can be commercialized. He adds that companies like CuraGen would not be effective players in the global market competition without the support of ATP.

Edward Dohring, the president of Lithography Systems, Inc., in Wilton, CT, wrote to me in support of ATP, emphasizing the merits of the fair selection process which is entirely based on technical and business merit. He adds:

> Half of all ATP awards and joint ventures fo went to small business directed partnerships * * * and quality proposals in pursuit of ATP funds far outstrip the funds available. Without ATP, the technological opportunities would be slowed, or ultimately forfeited to foreign competitors more able to make key investments in longer term, higher risk research, such as is the focus of ATP.

ATP stimulates economic growth by developing high-risk innovations and by enabling technologies through proposed and cost shared by industry. U.S. Government investment in research and development is in peril at a time when our competition is increasing its support. Cuts in R&D are bad news for America's future. Last month, the Congress approved conference reports that reduced both the Department of Transportation's research, development, and technology programs and the Department of Energy's alternative energy R&D programs by 30 percent from the President's budget request. The CEA report confirms that Federal investments in R&D have a significant impact on high-wage jobs and maintaining U.S. leadership in the global economy. Now is not the time to drop out of the global R&D race and wander down a path toward technology bankruptcy. We need to protect our R&D investments, maintain our strong base and build upon our technology infrastructure so that America will remain an economic world leader. Eliminating ATP, as this conference report proposes, is a grave error.

OTHER TECHNOLOGY PROGRAM CUTS

This bill also contains large cuts in the National Information Infrastructure grants program which helps supply community services with advanced communications equipment to promote better health care, local government efficiency, and education services. Funding for the GLOBE Program which promotes understanding of science and environmental science in schools would be zeroed out in this bill. Commitments made to the joint projects of the United States-Israeli Science and Technology Commission by Commerce's Technology Administration would also be hampered by the reductions in this bill. Two other programs: the Manufacturing Extension Program and the Economic Development Administration Defense Conversion program will also be compromised if this bill is passed.

CUTS IN JUSTICE PROGRAMS

The conference report also undoes much of the good work we accomplished in passing the 1994 anticrime bill. It takes the COPS program—an extraordinarily successful program that has been putting thousands more police on the streets of our communities quickly and efficiently—and turns it into a smaller, State block grant program. There are no guarantees under the conference report that States will use those dollars to put more police on the streets. As I understand it, they have discretion to put these Federal dollars to use for general law enforcement purposes. Experience tells us that fewer police will be funded under such an approach. And every study tells us, and my constituents certainly have let me know, that what we need to feel safer and be safer in their communities is more police walking beats. I am strongly opposed to drastically altering this program, and particularly doing so on an appropriations bill.

CUTS IN FOREIGN AFFAIRS

The bill also does not adequately fund foreign affairs functions essential to American engagement in the world and pursuit of our interests abroad. While the funding levels are higher than in the original bill, they remain inadequate, funding for State Department operations—American diplomacy and services for American citizens and companies around the world—is set below last year's levels. The President had requested an increase in order to keep necessary foreign posts open, replace antiquated computer equipment and maintain U.S. assets.

The funding levels for international organizations are grossly insufficient to meet our obligations and our national interests. The United Nations, NATO, and other organizations carry out activities—from peacekeeping and nonproliferation to control of epidemic diseases and protection for human rights—which directly serve America's national interests.

Many of these international organizations need management reforms similar to the reinventing Government exercise which Vice President Gore is leading within the U.S. Government. But our diplomats cannot effectively pursue these reforms, and reduce the expenditures of these organizations, if the United States is not a responsible member. For some functions, such as U.N. peacekeeping, U.S. arrearages have already impeded sound management and cost-efficient procurement. The United States must be a responsible member of the international community. We should pay our debts. It does not make sense to build up arrearages to the U.N. and other organizations which we will need to pay off in the coming years as we move toward a balanced budget.

Public diplomacy programs are also severely underfunded in this bill. The international broadcasting programs managed by USIA are critical for U.S. leadership, since they reach people around the world living under repressive governments or in emerging democracies. I was also disappointed to see support for the National Endowment for Democracy reduced even modestly.

World leadership is a responsibility which is not free. But the financial cost for effective American diplomacy, formal and public, is a reasonable price to pay for the continued U.S. leadership in the world which is so important to the safety and prosperity of every American.

I cannot support this Commerce, State, Justice conference report. It strips funds needed to fight the war on crime, to develop the technology that will be a keystone to our economic future, and to undertake basic foreign policy tasks.

RESTRICTING THE UNITED STATES GOVERNMENT GROWTH OF UNITED STATES-VIETNAM RELATIONS

Mr. BOND. Mr. President, one provision in the Commerce, Justice, State appropriations bill that I oppose is the language that prohibits the Department of State from spending any funds to expand our diplomatic relations with Vietnam until the President certifies that Vietnam is fully cooperating with the United States in four areas relating to POW/MIA's: First, resolving discrepancy cases, live sightings and field activities; second, recovering and repatriating American remains; third, accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIA's; and fourth, providing further assistance in implementing trilateral investigations with Laos.

I must say that I am somewhat dumbfounded as to why we would include this provision. In fact, the President certified these four criteria this past summer, when he made the decision to move forward on full diplomatic relations with Vietnam.

I certainly understand that there are many who disagree with that move, but the fact is that as President, he has the authority to conduct foreign affairs, and it is not appropriate for us to try to undercut him.

Shortly after the President moved forward with full diplomatic relations, a vote was taken in the Senate on whether additional sanctions should be imposed against Vietnam. By an almost 2-to-1 margin, the Senate voted that no, we should not implement any more sanctions on Vietnam. Let me repeat that. By nearly 2-to-1, we in the Senate said ''no more sanctions on Vietnam.''

The President made the right decision in moving forward with full diplomatic relations. This provision would threaten those new relations without in any way helping to meet its goal of resolving MIA cases. Moving forward with relations and increasing bilateral contacts is the best way of achieving that goal.

It appears almost certain that this bill is headed for a veto, which means we will have another opportunity to address this topic. I urge conferees to reconsider this provision and to eliminate this unnecessary and unhelpful encroachment on the President's power to conduct foreign policy.

Mr. THURMOND. Mr. President, I rise today in support of the language included in this conference report which reprograms money to establish a Border Patrol training facility at the Charleston Naval Base. This announcement was made back in July of this Year after the Department of Justice completed a competitive evaluation of several active and former Department of Defense facilities. In August, Congress approved the reprogramming request that was sent by the Department of Justice for this facility. During conference on this appropriations measure, the committee voted by an overwhelming majority of 11 to 1 to put the Border Patrol training facility in Charleston.

It is expected that this facility will train up to 2,400 agents over the next 3 years. Also, approximately 60 full-time instructors will be employed to conduct the training. Mr. President, Charleston is an ideal location for this facility. It is only about 2 hours from Glynco, GA, where the Border Patrol has its main training facility, and the naval base has readily available and convertible facilities to use for this project. The facilities, climate, and friendly community make Charleston an ideal location for the Border Patrol School.

Mr. WELLSTONE. Mr. President, the conference report the Senate is currently considering does some weighty damage to the 1994 Violent Crime Prevention Act passed by a bipartisan Congress last year. It would dismantle the Community Oriented Policing Services [COPS] Program, block grant it, and combine it with the crime prevention block grant into one big block grant. It would also cut funding for the resulting block grant. Along the way it destroys funding for child safety centers. The bill does fully fund the Violence Against Women Act, also known as VAWA, and for that I am grateful.

Mr. President, I want to begin my statement by focusing on the positive, and by congratulating my colleagues for deciding to fully fund VAWA. The conference report restores the $76 million for VAWA that the House would have cut. VAWA funds are of vital importance to this nation. VAWA funds training for police, prosecutors, and victims advocates to target family violence and rape; programs to reduce sexual abuse and exploitation of young people; training for judges and prosecutors on victims of child abuse; training for State court judges on rape, sexual assault, and domestic violence cases, and programs to address domestic violence in rural areas.

Last year, $240 million was promised by Congress for the Violence Against Women Act [VAWA] programs for fiscal year 1996—$176.7 million for VAWA

programs administered by the Department of Justice, and $61.9 million for VAWA programs administered by the Department of Health and Human Services.

All of this is funded out of $4.2 billion provided by the Crime Trust Fund in 1996. Funding in the Crime Trust Fund comes from eliminating 123,000 Federal jobs and cutting domestic discretionary spending. Full funding of the Violence Against Women Program has no effect on the budget deficit and requires no new taxes. Now, I want my colleagues to clearly understand what this all means. Last year, we as a country decided that addressing crime was a top priority. We decided that savings from streamlining the Federal Government and cutting other domestic programs would go to fight crime.

As a country we made a commitment to breaking the cycle of violence and see that a person's home is the safe place that it should be. As of today, we are still living up to that commitment, by supporting this program.

I must also commend my colleagues on the Appropriation Subcommittee on Labor/HHS for their efforts and wisdom in fully funding the Violence Against Women Act program under their jurisdiction.

We must remember all the programs in the Violence Against Women Act are a package. Senator BIDEN and others worked for 5 years on this piece of legislation. All the pieces of it fit together. They all must be in place for it to work effectively. For example, we can encourage arrests by police officers but if they are not properly trained to understand the dynamics of domestic violence, an arrest could make the situation more explosive. Likewise, if more batterers are being arrested but judges are not trained to understand or take domestic violence seriously, batterers are likely to go free or be charged with lesser offenses.

Violence Against Women Act programs deserve the funds we are giving them. Anything less would have resulted in a betrayal of the bipartisan promise Congress made. Domestic violence must continue to be a priority for national crime-fighting efforts.

We know all too well that violence in the home seeps out into our streets. If we do not stop the violence in the home we will never stop it in the streets. We knew this when we passed the crime bill last year and it is still true today.

As I travel and meet more and more women and children who are victims of domestic violence, I become even more outraged that a woman's home can be the most dangerous, violent, or deadly place she can be; if she is a mother, the same is true for her children. It was with the passage of the Violence Against Women Act that Congress said, loud and clear, it is time to stop the cycle of violence, it is time to make homes safe again, and it is time to help communities across the country deal with this crisis.

I thank my colleagues for protecting this program. I wish that the rest of the conference report reflected such concern on the part of my colleagues for preventing crimes.

Unfortunately, the conferees have decided to block grant COPS and to combine it with local community crime prevention block grants. There are may serious problems with this approach.

In passing the crime law last year, Congress authorized $75.9 million for local community crime prevention block grants for fiscal year 1996, and $1.85 billion for COPS. Instead of fully funding both individual programs, the conference report that is before us creates a single block grant, combining both the COPS program and the prevention block grants and funding the result, the local law enforcement block grant, at $1.9 billion, about $25 million less than the two programs would have cost individually.

First of all, I believe that this block grant approach would open the door to funding anything under the sun that a governor determines is law enforcement or crime prevention. And it effectively could eliminate all crime prevention that was envisioned by the 1994 crime bill. For when law enforcement is pitted against crime prevention efforts, law enforcement always wins. The only specifically earmarked crime prevention money left is now the Violence Against Women Act. Out of an allocation for the Department of Justice of $14.5 billion dollars, only $175 million is directly targeted to the prevention of crimes.

This, I say to my colleagues, turns the clock back on the commitment we made last year to help communities which are both fighting and trying to prevent crime.

While I am on the subject of ignoring our commitments, in addition to gutting prevention programs, the conference report guts the very centerpiece of the 1994 crime law—COPS, which provides money for hiring, over 5 years, 100,000 more police officers to patrol our Nation's streets. To date, under this program, more than 25,000 police officers have been hired—in Minnesota alone, 354 new cops have been funded, and Minnesota has applied for 128 more. Importantly, each of these officers were hired to be on the beat, not in the office.

At a time of very tight budgets, the money for both the COPS Program and the crime prevention block grant come from savings achieved by reducing the Federal bureaucracy. None of these new police officers or crime prevention programs are adding an additional burden on the taxpayer. We as a Congress, and indeed a country, made fighting crime a top priority last year when we decided to use the savings from streamlining the Federal Government and from cutting some domestic programs for fighting crime.

The COPS Program is a good program. It is reaching and helping communities. It is very flexible. Local jurisdictions can work with the Justice Department to meet their particular needs. The Justice Department has acted swiftly, has minimized the paperwork, and has staffed 800 numbers for immediate assistance. It is not surprising, therefore, that approximately 200 Minnesota jurisdictions have participated in this program. What's more, Attorney General Janet Reno has created a new effort at the Department of Justice to target some of these new cops on the beat to help address domestic violence.

Having more cops involved in community policing fighting crime means less crime. It is as simple as that. In only a short time the COPS Program is already delivering on its promise of providing more police officers in a very cost effective, flexible manner. Not surprisingly those on the frontline in the fight against crime have only praise for this program. Police chiefs, sheriffs, deputies, and rank-and-file police officers all support this effort to put more police in communities.

But now this very successful and popular crime-fighting program is under attack by Republicans who have converted its funding into a block grant. The conference report block grant plan does not stipulate that the money must be spent on hiring cops. Instead, the money can be redirected to fund restaurant inspectors, parking meters, radar guns—and any other of a host of things.

The money ought to be spent the way it was intended and the way law enforcement officials want it spent: to hire police officers. The Nation's major police enforcement organizations all agree on this point.

We all know that crime is one of the great plagues of our communities. People in the suburbs and people living downtown are afraid—they are afraid to go out at night, they are afraid to venture into the skyways, they are afraid to leave their cars parked on the street. We also all know that having a larger police presence helps deter the very crimes that people fear the most. Buying more parking meters, radar guns, or hiring more restaurant inspectors does not address this plague nor address peoples' legitimate fears.

It is peculiar that the party that claims to be tough on law and order is proposing as one of their first steps to change a successful, cost-effective law and order program—one that ought to have broad, bipartisan support.

Crime prevention was also an essential element of the crime bill. Despite the fact that at each step of the way in passing the crime bill prevention programs got watered down, in the end we decided that crime prevention had to be part of that bill.

Two years ago, when Congress began consideration of the crime bill, we started with a substantial portion of the crime bill addressing prevention; after all, prevention is crime control, stopping crime before it ever happens.

It, by the way, included something that I think is extremely important—supervised visitation centers. A model that I brought from Minnesota to help families with a history of violence, which I will discuss in a moment.

Ultimately, we ended up with a crime bill that included a block grant to the States for prevention programs—the local community crime prevention block grant. And, funding was not even authorized until fiscal year 1996. We haven't even given it a chance to work and get into communities—the only provision in the crime bill other than VAWA that was intended to prevent crime, one of the few provisions that was not funded until next year.

The local crime prevention block grant, like the COPS program, was supposed to provide a lot of flexibility to the States and communities. Under this block grant communities could have determined what types—within a general list of about 14 different ideas—of prevention programs to fund, and which prevention plans fit their community the best. But this block grant was for prevention, nothing else. And, as I stated earlier, it had not even had a chance to be implemented. This coming year would have been the first year funding would actually go to help communities.

But instead these 14 programs are now left to compete for funds with police stations and mayors' offices and jail. The money will never make it to community prevention efforts.

If we were to listen to people in the communities that are most affected by the violence, they would tell us that money has to go to prevention. You have to put some resources toward making sure our young people have opportunities. How interesting it is that those who would essentially eliminate these prevention programs do not come from those communities, do not know the people in those communities, and I do not think asked the people in those communities at all what they think should be done.

Mr. President, I can just tell you that in meeting with students, students that come from some pretty tough background—students at the Work Opportunity Center in Minneapolis, which is an alternative school, young students who are mothers and others who come from real difficult circumstances, all of them said to me: You can build more prisons and you can build more jails, but the issue for us is jobs, opportunity. You will never stop this cycle of violence unless you do something that prevents it in the first place.

Then I turn to the judges, the sheriffs, and the police chiefs, and I call them on the phone in Minnesota, and I ask them what they think. And they say yes we need community police and yes we need the other parts of the crime law, but they all say, if you do not do something about preventing crime, if these young people do not have these opportunities, if we do not get serious about reducing violence in the home, do not believe for a moment that we are going to stop the cycle of violence.

Mr. President, I believe that a highly trained police, highly motivated, community-based, sensitive to the people in the communities, can make a difference. They are wanted and they are needed. But the conference report we are considering today will do nothing to prevent the criminal of tomorrow. And indeed without more cops on the beat it may not do much to fight the criminals of today.

Every 5 seconds a child drops out of school in America. This is from the Children's Defense Fund study. Every 5 seconds a child drops out of a public school in the United States of America. Every 30 seconds a baby is born into poverty. Every 2 minutes a baby is born with a low birthweight. Every 2 minutes a baby is born to a mother who had no prenatal care.

Every 4 minutes a child is arrested for an alcohol-related crime. Every 7 minutes a child is arrested for selling drugs. Every 2 hours a child is murdered. Every 4 hours a child commits suicide, takes his or her life in the United States of America. And every 5 minutes a child is arrested for a violent crime.

Mr. President, if we do not continue to be serious about the prevention part, we are not going to stop the cycle of violence.

All too many young people are growing up in neighborhoods and communities in our country where if they bump into someone or look at someone the wrong way they are in trouble, where there is too much violence in their homes, where violence pervades every aspect of their life. And people who grow up in such brutal circumstances can become brutal. And that should not surprise any of us.

Prevention and law enforcement—both essential elements of any crime fighting effort. These two should not have to compete with each other for funding, nor should funding be cut for either.

Which brings me to the most painful part of my statement today. This new block grant takes away funding for child safety centers. By discarding local community crime prevention block grants, which would have provided funding for child safety centers specifically as one of its 14 prevention programs, the conference report discards this program as well.

Child safety centers were created by the Child Safety Act, which became law in 1994 as part of the crime bill. It authorized funds to create supervised visitation centers for families who have a history of violence.

The prevalence of family violence in our society is staggering. Studies show that 25 percent of all violence occurs among people who are related. Data indicates that the incidence of violence in families escalates during separation and divorce. Many of these assaults occur in the context of visitation.

Supervised visitation centers would:

Provide supervised visitation for families where there has been documented sexual, physical, or emotional abuse.

Provide supervised visitation for families where there is suspected or elevated risk of sexual, physical, or emotional abuse, or where there have been threats of parental abduction of the child.

Provide a safe and neutral place for parents to visit with children who have been put in foster care because of abuse and neglect.

Provide a safe location for custodial parents to temporarily transfer custody of their children to non-custodial parents.

Serve as an additional safeguard against children witnessing abuse of a parent or sustaining injury to themselves.

The Child Safety Act would have supported the establishment and operation of approximately 30 centers across the United States. The Child Safety Act requires grant recipients to submit an annual report to the Secretary of Health and Human Services on the volume and type of services provided at the supervised visitation center. Twenty percent of the grants made under the Child Safety Act would support the establishment of special visitation centers created to study the effectiveness of supervised visitation on sexually and severely physically abused children. These centers would be staffed with qualified clinicians and would have enhanced data collection capabilities. From the reports submitted by grant recipients, the Secretary would prepare and submit a report to Congress on the effectiveness of supervised visitation centers.

Mr. President, because this program is unenumerated it doesn't stand a chance in competition with other, established entities under the conference report's block grant. Mr. President, there is nothing that will replace this program. There is no one who will step in and take care of these children. There is no one who will try to make these families whole. The communities trying desperately to repair themselves will get no help from us.

Mr. President, for this and the other reasons I have discussed today, I have severe reservations regarding this conference report.

Mr. BRADLEY. Mr. President, I rise in opposition to H.R. 2076, the Conference Report Making Appropriations for the Departments of Commerce, Justice and State. This bill would eliminate the Community Oriented Policing Program [COPS] and replace it with a block grant program. By gutting a program that has proven effective in putting police officers on the streets to interact with community residents, Congress is reneging on a promise that was made to the American people last year to aggressively attack the epidemic of crime.

In August of last year, Congress passed the $30.2 billion Violent Crime

Control and Law Enforcement Act of 1994, the largest, most comprehensive piece of legislation in the history of this country. The centerpiece of the crime bill is the Community Oriented Policing Services Grant Program [COPS], a six year, $8.8 billion crime fighting program designed to put 100,000 law enforcement officers on the streets. I provided a jumpstart for the community policing initiative in the crime bill when I introduced a bill in March of 1993 that authorized a major new expansion of community policing.

Mr. President, in 1 year, roughly 80 percent of the police departments in the country have been authorized to hire or redeploy almost 26,000 officers for community policing. To date, Mr. President, over 300 New Jersey jurisdictions have received more than 670 additional cops to walk the beat. Over the next 5 years, New Jersey can expect to receive a total of about $250 million in community policing grants to hire approximately 2,800 officers on the beat.

Mr. President, community policing involves establishing a close relationship between community residents and the entire police department. This enhanced relationship will result in better law enforcement by putting more cops on the beat to stop trouble before it turns into violent crime. Community policing also will improve the overall quality of life of community residents by involving all police personnel in community activities.

In my talks with the citizens and law enforcement officers in New Jersey, I have been told that the Community Policing Program is improving the quality of life by making neighborhoods and communities safer. For example, in Woodbury, NJ, Chief Carl Kinkler has reported that the one police officer hired under the COPS Program has made a tremendous difference in the quality of life in the city. The hiring of the officer has allowed the department to deploy two officers to patrol a problematic community where open air drug dealing has been prevalent. During the last 3 months, 11 major drug arrests have taken place and open air drug dealing has declined by 90 percent. According to Chief Kinkler, deploying cops on the beat has allowed the city of Woodbury to allow the residents of this community to take control of their neighborhood.

In Newark, NJ, the community policing program has been enormously successful. Officers patrol neighborhoods on foot, and in those areas requiring acute attention, Neighborhood Stabilization Units have been set up. These units are literally mobile police stations, in which police officers in a specially equipped van drive into an area and set up a police station in the community.

In addition to solving and deterring crime, Newark police indicate that officers on the beat have been instrumental in dealing with quality of life issues. The officers solicit from citizens problems that merit attention, such as prostitution, illegal dumping, and loud music which creates a public nuisance. The officers then solve the community problems. The cops on the beat also handle citizen concerns that traditionally fall outside the realm of police activity, such as repairing streets, towing abandoned cars, and razing abandoned buildings. The police department reports that community policing has have a significant impact on providing citizens with safer communities and an enhanced confidence in the police force.

Mr. President, this legislation provides that the block grant funding can be used for basic law enforcement functions, which can include prison guards, meter maids, file cabinets and parking meters. There is no guarantee that one police officer will be hired to stand with community residents to fight crime. I am reminded that when Congress debated the crime bill, critics of community policing argued that it was impossible to put 20,000 police officers on the streets over the life of the crime bill. However, in approximately one year, almost 26,000 cops have been deployed to walk the beat and rid communities of crime. Mr. President, a year ago a promise was made to put 100,000 police officers on the streets within 6 years. We are well on the way to fulfilling this promise. However, if Congress kills the community policing program—a program that has proven hugely effective in combatting crime—the guarantee that Congress will make to the American people is that their security is no longer a priority issue.

Mr. President, Congress has had past experience with block grants in the Law Enforcement Assistance Administration Program. I would like to remind my colleagues that this program had to be terminated because of waste. We should not make the same mistake today by eliminating a highly successful program that to date has funnelled Federal money directly to approximately 80 percent of police departments around the country to enable those departments to deploy officers on the beat to form a partnership with community residents to fight crime.

Mr. President, the community policing program has been immensely successful and is supported by the law enforcement community, including the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the International Brotherhood of Police Officers, the National Association of Police Organizations, the National Organization of Black Law Enforcement Executives, the National Troopers Coalition, the Police Executive Research Forum and the Police Foundation. In addition, 65 percent of the American people support funding for more police officers. I urge my colleagues to stand with the American people in opposition to this bill and preserve the community policing program.

GENDER BIAS STUDIES IN THE COURTS

Mr. SIMON. Mr. President, I rise today to discuss one of the remaining barriers to equal justice in our State and Federal judicial proceedings—bias by judges and court personnel, and in particular, gender bias. I, and my colleagues from Massachusetts and Delaware, Senators KENNEDY and BIDEN, strongly believe that funds appropriated for the Federal judiciary, as set out in title III of the fiscal year 1996 Commerce-Justice-State appropriations conference report, should be used to study bias in the courts, if any, and to educate judges and court personnel about this barrier to equal justice in the courts.

As enacted, the Violence Against Women Act includes a provision—the Equal Justice for Women in the Courts Act—that authorizes and encourages each of the Federal judicial circuits to conduct studies of the instances, if any, of gender bias in the courts and to implement appropriate reforms. These studies were intended to examine the effects of any differential gender-based treatment in areas such as the treatment of litigants, witnesses, attorneys, jurors, and judges, the services and facilities available to victims of violent crime and the selection, retention, promotion, and treatment of employees.

In addition to authorizing the circuit studies, the act also requires the Administrative Office of the United States to act as a clearinghouse to disseminate any reports and materials issued by these gender fairness task forces. The act also requests the Federal Judicial Center to include in its educational programs, such as training programs for new judges, information related to gender bias in the courts.

These circuit-by-circuit studies were included in the act after the Senate Judiciary Committee unanimously accepted an amendment that I had offered. In passing the Violence Against Women Act, Congress recognized the need for research of this kind and the importance of disseminating the results of such research throughout the judicial system.

The importance of these studies extends well beyond their actual results. For example, the Hate Crimes Statistics Act, which I authored and which President Bush signed into law in 1990, requires the Justice Department to collect data on crimes based on race, religion, ethnicity, and sexual orientation. Oversight hearings on the implementation of that act demonstrated that one of its many benefits was to dramatically increase the awareness and sensitivity of the police about hate crimes. In this case, requiring circuit courts to study gender bias would have the same beneficial effect of increasing the awareness and sensitivity of judges and court personnel about gender bias.

While some of my colleagues may disagree, I strongly hope that, as authorized by Congress, the Federal judiciary will issue the reasonable funds appropriated under this act to fulfill

the purposes of the Equal Justice for Women in the Courts Act and achieve the ultimate goal of our Federal judicial system—equal justice for all.

Mr. KENNEDY. I thank the Senator from Illinois for his remarks, with which I fully agree. There should be no disagreement on the need to take steps to identify and eliminate any gender- or race-related bias in our judicial system. We must not tolerate any barriers to equal justice in our State and Federal judicial proceedings. More than 40 State and Federal court systems have conducted studies of gender bias in their courts. In part in reaction to some of the State court studies, the 1990 report of the Federal Courts Study Committee supported educational programs on bias for judges and court personnel. The Study Committee found that many task force studies at the State level revealed the presence of gender bias in State judicial proceedings. The 1990 report concluded, ''[w]e believe education is the best means of sensitizing judges and supporting personnel to their own possible inappropriate conduct and to the importance of curbing such bias when shown by attorneys, parties, and witnesses.''

The Judicial Conference of the United States has endorsed the need for gender bias studies three times. In 1992, the conference adopted a resolution noting that ''bias, in all its forms, presents a danger to the effective administration of justice in Federal courts'' and encouraging each Federal circuit not already doing so to ''sponsor education programs for judges, supporting personnel and attorneys to sensitize them to concerns of bias based on race, ethnicity, gender, age, and disability, and the extent to which bias may affect litigants, witnesses, attorneys, and all those who work in the judicial branch.'' In 1993, the conference's ''Resolution on the Violence Against Women Act,'' endorsed the gender bias studies provision as having great merit. And earlier this year, the conference approved a report of its Court Management Committee that encouraged the study of gender and race bias by the Circuit Judicial Councils.

When we passed the Violence Against Women Act last year, we encouraged such studies, a policy that remains in force unless it is repealed or altered by a subsequent statute. But even without our encouragement, the judiciary retains inherent authority to investigate bias in the courts. It strikes me as an inappropriate intrusion into the internal affairs of a coequal branch of government for Congress to prohibit such studies.

As the national debate on the O.J. Simpson trial made clear, many minorities are skeptical that they will be treated fairly in the justice system. Many women harbor similar doubts. The bias task forces are one way through which the judiciary can address legitimate problems. The judicial branch, independent of the Violence Against Women Act, is obligated to ensure the fair administration of justice, and investigations of bias in the courts are consistent with that important goal.

Mr. BIDEN. I wish to thank the Senators from Illinois and Massachusetts for their remarks on this important subject. The Violence Against Women Act is the first comprehensive measure aimed at making our Nation's streets, college and university campuses, and homes safer for women. Following extensive hearings, the Judiciary Committee unanimously approved the act, and Congress passed this landmark legislation.

Subtitle D of the act, entitled ''Equal Justice for Women in the Courts,'' was an important part of that legislation. As described by my colleagues, this provision encourages the circuit judicial conferences to conduct studies of gender bias within their respective circuits and to disseminate their results.

By enacting this provision, Congress intended to promote a greater understanding of the nature and extent of gender bias, to educate judges, and, ultimately, to reduce any bias. The Equal Justice for Women in the Courts Act takes us one step closer to achieving and maintaining equal justice under the law. It is an important part of an overall effort to ensure meaningful protection of the rights of those who were victimized by sex crimes, domestic violence, and crimes of violence motivated by gender.

A majority of the Federal circuits have already established gender bias task forces. Some circuits have expanded the mission of the task forces to include the study of racial and ethnic bias issues as well. I strongly believe that these studies and related education and training programs are critical to understanding whether there is any disparate treatment in the courts and, if so, what steps the courts should take to address it.

Task forces on gender, racial and ethnic issues have been endorsed by, among others, the National Commission on Judicial Discipline and Removal, the Long Range Planning Committee of the Federal Courts and, as noted by my colleagues, the Federal Courts Study Committee and the Judicial Conference of the United States.

As ranking member of the Judiciary Committee, and as the author of the Violence Against Women Act and the 1994 crime bill, I wish to join my colleagues in expressing my strong intent, that the Federal judiciary is authorized to use funds appropriated for violent crime reduction programs, as set out in title III of fiscal year 1996 Commerce-Justice-State appropriations conference report, to study gender bias and other related barriers to equal justice in our courts.

Mr. KERREY. I concur with distinguished Senators' analysis of the status of funding for the bias studies and with their beliefs about the importance of these studies. When we encouraged the judicial circuits to conduct gender bias studies, Congress acknowledged the importance and tradition of judicial self-examination on issues—such as this—that are critical to the administration of justice.

The Judicial Council of the U.S. Court of Appeals for the Eighth Circuit, which includes the State of Nebraska, voted unanimously to conduct a bias study. The council's vote does not reflect any doubt about the talent or integrity of any judge on that court, but rather reflects their commitment to the identification and elimination of bias where it exists, and their recognition of the importance of that task to preserving the integrity of our judicial system.

As a member of the Appropriations Subcommittee on Commerce Justice, State and Judiciary, I fully support the use of Federal funds for the continuation of this effort to improve the justice system in the eighth circuit and other Federal circuits.

Mr. BRADLEY. I wish to join my colleagues in their support for the continuation of the work of the Federal judiciary in studying the existence, if any, of gender bias in the courts.

I am proud to say that in 1982, the Chief Justice of the Supreme Court of New Jersey established the Nation's first task force on gender in the courts. Now, the majority of States have commissioned gender task forces and issued reports of their findings. In general, these studies have identified some problems in the State courts and identified steps that can be taken by the bench and bar to improve the fair treatment of attorneys, litigants, and employees.

No one should question the importance of ensuring that our Federal courts truly function as fair, neutral adjudicators. Toward that end, the Federal courts should be commended for taking the steps to identify and, where it exists, to eradicate, gender bias in decisionmaking, employment, and the treatment of individuals. The work of these gender fairness task forces may not always be popular. The work may not always be comfortable for some. But in the end, their work will help ensure that the courts are, and are perceived to be, fair to all litigants.

I agree with Senators SIMON, KENNEDY, BIDEN, and KERREY that the Federal judiciary is fully authorized under the Violence Against Women Act to conduct these important studies and that the allocation to the judiciary under this appropriations bill may be used for that purpose.

Mrs. BOXER. I was proud to be a coauthor of Violence Against Women Act when I served in the House and I am pleased now to join my colleagues in stating my strong support for the important work of the gender task forces authorized under VAWA. I fully agree that the courts are authorized to continue this work using funds provided in this appropriations bill.

The ninth circuit was the first Federal circuit to form a task force to

study the effects of gender in the judicial system. The work of the task force was initiated before Congress encouraged such studies. The ninth circuit report was issued in July 1993 and it concluded in part that ''[a]lthough the judiciary aspires to a system of justice in which the gender of participants is of no import, the results [of the study] document that in the current world, gender counts.'' Supreme Court Justice Sandra Day O'Connor called the ninth circuit report a comprehensive, well-supported report.

The majority of Federal circuits have already created task forces to study the effects of gender in the courts. Their work should not be discouraged in any way now.

Mr. LAUTENBERG. As a member of the Appropriations Committee Subcommittee on Commerce, State, Justice, and Judiciary, I wish to express my support for the work of the task forces on gender and racial bias in the courts. I concur with my colleagues as to the importance of the task forces and I join my colleague, Senator BRADLEY, in noting that New Jersey has been a leader in the effort to ensure gender and racial fairness in the courts.

I firmly believe that funding for this important work is provided for in this appropriations bill and I join my colleagues in encouraging the judiciary to continue this work.

Mr. GLENN. I thank my colleagues for their insightful remarks on this important topic. I believe what we are really talking about here is maintaining the ability of the judiciary to address issues of particular importance to that branch of government. And bias is certainly such a topic. The judiciary is in the best position to determine whether this topic merits study or educational activities. And I believe the judiciary should be given the flexibility to do so.

The Judicial Council of the Sixth Circuit, which includes my home State of Ohio, felt strongly enough about this issue that it has approved the formation of a task force on gender fairness and a task force on racial and ethnic fairness.

Mr. BUMPERS. I join my colleagues to express my support for the efforts of the task forces on gender bias in the Federal courts.

Six of the seven States in the eighth circuit have conducted gender and/or racial bias studies. When bias was documented, these State task forces recommended improvements designed to assure the fair administration of justice for men and women in the courts.

In 1994, Chief Judge Richard Arnold of the U.S. Court of Appeals for the Eighth Circuit appointed a 30-member gender fairness task force on gender bias. The group includes 12 Federal judges from each of the 7 States in the circuit as well as court administrators, attorneys, and law professors. These distinguished task force members are committed to a careful, responsible survey of the court to determine whether gender bias exists there. Congress has unequivocally authorized this work and I strongly believe that the Federal judiciary should continue this effort.

COMMUNITY RELATIONS SERVICE

Mr. GRAHAM. Mr. President, I would like to take this opportunity to speak on the conference agreement regarding the structure of and funding for the Community Relations Service.

The appropriations level for the Conflict Resolution Program of the Community Relations Service [CRS] of the U.S. Department of Justice in this bill—$5.3 million—would have a catastrophic impact on the agency's conflict resolution mandate.

CRS is vital to this Nation's ability to continue to make progress in improving race relations. The important work of CRS is essential to preventing and resolving the day-to-day racial conflicts in the communities we represent. Without an effective CRS, racial tensions and conflicts will disrupt the economy and tear at the social fabric of the hometowns across Florida and elsewhere.

Over the past 3 years CRS has shifted resources from headquarters administration to field conciliation, leaving CRS with no buffer of administrative staff. Due to a series of budget reductions over the years, the CRS conflict resolution budget is almost all salaries and expenses at this point.

Because this program does not operate large scale grant, contract, training, or other operations that could offset the impact on personnel, this funding reduction will lead to the necessity to lay off almost 65 percent of the conflict resolution staff.

At this funding level, CRS would only be able to staff its 15 offices around the country with 2 or 3 conciliators in each office. Florida's regional office is in Atlanta and covers 7 other states in the region. With these drastic cuts, these people cannot begin to provide the racial conflict resolution services that Florida needs.

And even with this modest staffing level of 2 to 3 conciliators in most offices, the ability of the agency to sustain independent administrative and management operations would be seriously undermined.

We must recognize what this loss of service will mean to the people of this country. Without the full funding of $10.6 million CRS, the country will be without a vital service that no one other than CRS can provide.

Further, I am opposed to the transfer of the Cuban-Haitian Resettlement Program from the Community Relations Service to the Immigration and Naturalization Service. INS is, in large part, an enforcement agency whose mission is not that of administering resettlement activities such as the Cuban-Haitian program. I am also concerned that the Cuban-Haitian program would be lost in such a large organization as INS which has scores of priorities.

At CRS, the Cuban-Haitian program is one of two missions that complement each other successfully: conflict resolution and Cuban/Haitian resettlement. The Cuban-Haitian Program has been successfully administered by CRS for 15 years. CRS has successfully implemented the outplacement operations of Cubans and Haitians from Guantanamo and the resettlement programs for unaccompanied alien minors. The resettlement program has been indispensable to our Defense Department's Atlantic Command in managing the Cuban-Haitian programs at Guantanamo and in Panama. CRS has helped to resettle over 17,000 migrants as part of DoD's Operation Sea Signal.

The conflict resolution program works hand in hand with communities throughout the country to gain receptivity to the influx of refugees and entrants under the Cuban/Haitian program and has smoothed the way for an orderly resettlement process. CRS resettlement efforts directly support local communities by reducing and preventing strain on local public services and preventing potential community tensions.

Both missions of CRS, Cuban-Haitian resettlement and the Conflict Resolution Program should remain as a separate division within the Department of Justice. Should the Senate have another opportunity to consider the Commerce, Justice bill, I would encourage my colleagues to support the CRS language in the Senate-passed bill.

Mr. FORD. Mr. President, when the Commerce/Justice/State appropriations bill was before the Senate I noted that it included an amendment of the National Voter Registration Act of 1993. That amendment is in this conference report. Since a veto of this measure is likely, this is not the right time to pursue my objection to this amendment. But, it is my purpose now to give notice that I will continue—at the appropriate time—to oppose this and any other attempt to weaken the Motor-Voter Act.

The provision that I object to would change the exemption provision of the Motor-Voter Act. That exemption was drafted—at the specific insistence of Republicans—so as to exempt only those States that had already, as of March 11, 1993, enacted election day registration or had no registration requirement. The amendment in this conference report would change the date to extend the exemption to include two more States, New Hampshire and Idaho.

The Motor-Voter amendment included in this report violates the purpose of the exemption provision. That purpose was clearly stated by the Republican floor manager of the Motor-Voter bill. His statement regarding the exemption is clear and unambiguous, so I will repeat it here.

Republicans slammed the escape-hatch shut. No longer is this bill a backdoor means of forcing states into adopting election day

registration or no registration whatsoever. * * * Republicans succeeded in grand fathering in the five States that would have qualified for the exemption prior to March 11, 1993.

With regard to requests from other states—Michigan, Illinois, and South Dakota—urging that the exemption not include such a deadline, the Republican floor manager said ''their constituents are better served by the closing of the escape hatch than if it had been left open.''

It should be clear from the foregoing that this is not merely an insignificant or technical amendment. Its purpose is contrary to the intent of the exemption provision of the Motor-Voter law. Its underlying intent is obvious and should be addressed directly. This is another attack on the implementation of the Motor-Voter law. It is also a thinly veiled attempt to curry favor of New Hampshire election officials shortly before that all-important first Presidential primary.

I made a more detailed statement of my reasons for opposing this amendment when this measure was first under consideration. Rather than repeat them now, I will conclude by reiterating that I will continue to oppose—at the appropriate time—this and any other attempt to weaken the National Voter Registration Act.

Mr. KERRY. Mr. President, I rise in opposition to the conference report appropriating funds for the Departments of Commerce, State and Justice for fiscal year 1996. The funding levels contained in this report are no better than those contained in its predecessor that the President vetoed. I have expressed earlier my extremely serious reservations about the provisions relating to the Justice Department and the elimination of the Cops on the Beat Program that I and many of us worked so hard to enact.

I now would like to focus my comments briefly on those provisions of the conference report that deal a serious blow to the Commerce Department's technology programs as well as to the provisions relating to Vietnam. Many of the Commerce Department technology programs, like the Advanced Technology Program and the Manufacturing Extension Program, have played a pivotal role in the start-up of high-technology and biotech businesses and the growth of jobs in these sectors in my State of Massachusetts.

The conference report completely zeros-out funding for any new projects that would have been supported by the Advanced Technology Program, or ATP. The ATP had been funded at a level of $323 million in fiscal year 1995, and the President had requested more than $490 million for this program in fiscal 1996. Companies that had applied for new project funding to bring enabling technologies to the point of commercialization will be denied funds under this bill. This will hurt a number of firms in my State, including Dynamet Technology of Burlington which is developing surgical implant components, Gensym Corp. of Cambridge which is developing variable air conditioning systems and the Lorron Corp. of Burlington that is working to upgrade fire protection modeling codes. I had hoped the Senate figure of more than $100 million would prevail. Instead, the elimination of funding for this program will deal a severe setback to many start-up and other high-technology firms in my State.

The conference report preserves $80 million in funding for the Manufacturing Extension Program [MEP]. Through the University of Massachusetts at Amherst and Bay State Skills, MEP has provided valuable, hands-on technical and management consulting on manufacturing processes for small and mid-sized businesses. MEP estimates that every dollar of its support generates $15 in economic growth for the local community. The funding cut contained in this report will hurt companies like Alpha Industries of Woburn, whose 600 employees are successfully making the transition from manufacturing semiconductors for the Defense Department to a commercial product operation.

Among many other programs in my State that will be hurt as a result of funding reductions or terminations in the conference report are the Massachusetts Biotechnology Research Institute, which has leveraged venture capital funds for new biotechnology companies in and around Worcester, and the textile center at the University of Massachusetts at Dartmouth, which had hoped to become the first university outside the Southeastern United States to participate in the National Textile University Centers. Cutbacks in the National Telecommunications and Infrastructure Assistance Program will hurt groups in my State that are seeking to get on the information superhighway. Among them are the Executive Office of Education in Boston that is developing a statewide, integrated, interactive voice and data network, called the Massachusetts Information Infrastructure. This network will begin by connecting 20 of an estimated 352 sites at libraries of K–12 schools and higher education institutions, local government and health and community organizations throughout Massachusetts. More than 80 other entities in my State have sought assistance from this program, but are not likely to receive any help in the face of the proposed funding cuts.

I would now like to turn briefly to the State Department title of the bill that relates to Vietnam.

The conference report conditions the establishment of an embassy in Vietnam on a certification by the President with respect to Vietnamese cooperation on providing POW/MIA information. As the former chairman of the Senate Select Committee on POW/MIA Affairs, I believe that no one has worked harder or more conscientiously to ensure that our Nation and the families of our POW/MIA's get answers to the fate of these heroes. But I believe the way we secure continued and even enhanced assistance from the Vietnamese is by engagement.

I believe this provision could have the perverse effect of setting back our efforts. This amendment, offered by the House in conference, is really a thinly disguised effort to undermine the administration's decision to normalize relations with Vietnam, and it is contrary to the Senate's position opposing direct linkage of the POW/MIA issue and the process of normalizing relations with Vietnam.

Mr. President, being a strong supporter of the Cops on the Beat and other anticrime programs administered by the Justice Department, being a staunch advocate for the international trade, technology, environmental and fisheries programs carried out by the Commerce Department and being a steadfast advocate for the resolution of international conflicts through diplomatic means, it pains me to have to oppose this conference report. But I must and I will, knowing that the funding cuts and terminations will not sustain the programs we must have to keep our streets and communities safe, to keep our economy vibrant and to promote job creation and to maintain our presence in and the peace of this world.

Ms. MIKULSKI. Mr. President, I rise today in opposition to the conference report accompanying the fiscal year 1996 Commerce, Justice, State appropriations bill.

I am opposed to this conference report because it takes this country in the wrong direction. The conference report undermines our efforts to fight crime by abolishing the highly successful COPS Program and replacing it with a block grant to the States. Under the COPS Program, Maryland has received funding for 440 new police officers throughout the State devoted to community policing and keeping our streets safe. This conference report would pull the rug out from under this program and jeopardize future funding for these officers.

In addition, this conference report makes draconian cuts to the Commerce Department that will harm America's ability to maintain its technological edge. The conference report contains a rescission of $75 million in construction funds for the National Institute of Standards and Technology [NIST]. These funds were going to be used to construct a new advanced technology laboratory that would play a critical role in maintaining America's technological supremacy.

Originally built between 25 and 40 years ago, the majority of NIST's facilities are now technically and functionally obsolete, which makes it difficult if not impossible to support the requirements of advanced research and development projects. As a result, experiments are often delayed or subject to costly rework, and scientists must often accept levels of precision and accuracy below those needed by industry.

As the only Federal laboratory whose explicit mission is developing scientific standards and providing technical support for U.S. industry's competitiveness objectives, NIST must have a modern scientific infrastructure—the laboratories, equipment, instrumentation and support—in order to maintain a viable scientific research program and to keep our Nation on the cutting edge of science and technology as we move into the 21st century. This view was recently underscored by a group of 25 nobel laureates who called the laboratories ''a national treasure,'' which ''carry out the basic research that is essential for advanced technology.''

Under the conference report, the Commerce Department's Advanced Technology Program receives no new funding for fiscal year 1996. The ATP is another vital program for developing new technologies that lead to the creation of new jobs by supporting innovative research.

I believe this bill will not further America's long-term economic interests nor the interests of my own State of Maryland. Furthermore, the cuts to law enforcement will hurt our ability to fight crime in the streets and make our neighborhoods safer.

So, I will oppose the approval of this conference report.

Mr. PRESSLER. Mr. President, I would like to address briefly a few provisions in H.R. 2076, the fiscal year 1996 Commerce-Justice-State appropriations bill, that relate to funding of the United Nations.

First, I want to compliment the fine work of the new subcommittee chairman, the Senator from New Hampshire, Senator GREGG, for his great work on this bill. As all of us know, our friend from New Hampshire had to assume command, so to speak, while this bill was in flight. And as all of us know, this is a very important and complicated piece of legislation. The Senator from New Hampshire took command and has produced a good bill that is worthy of our support.

One provision worth noting is that which would limit U.S. contributions to the United Nations. Under the conference report, 20 percent of the funds appropriated for our regular budget assessed contribution to the United Nations would be withheld until a certification is made by the President to the Congress that the United Nations has established an independent office of inspector general as defined in section 401(b) of Public Law 103–236—the Foreign Relations Authorization Act of 1994.

This withholding requirement should sound familiar to my colleagues. The provision in the conference report extends a withholding requirement I offered as an amendment to the Foreign Relations Authorization Act during Senate consideration in 1994. The reason why I took this step nearly two years ago was because of rampant waste, fraud, abuse, and outright thievery at the United Nations.

For years, I have identified specific examples of budgetary mismanagement and wasteful practices at the United Nations. I believed that the solution to these practices was the same solution the federal government has adopted to ensure American taxpayer funds are well-spent: an independent inspector general. Specifically, what was needed then and now is an office or mechanism that can conduct budgetary audits; recommend policies for efficient and effective U.N. management; investigate and detect budgetary waste, fraud and abuse; and provide an enforcement mechanism that would enable the Secretary General, or even the so-called inspector general, to take corrective action.

The withholding requirement was put in place for two reasons: First, it was important to demonstrate that the U.S. Government was very serious about putting an end to U.N. fiscal mismanagement. As the single largest contributor to the United Nations, I believed that it was time to use this leverage to achieve real reform at the United Nations. Second, I believed that American taxpayer dollars should not be used to subsidize waste, fraud, and abuse. Frankly, I had sought a higher withholding amount—50 percent—to achieve this goal, but twenty percent was the highest I could get through what was then a Senate controlled by the Democrats.

Since the adoption of this withholding provision, U.N. reform has become a more important and open topic of discussion in the halls of the United Nations, and the Clinton administration. During the 50th anniversary celebration of the United Nations, the President devoted much of his address to U.N. management reform. The United Nations has appointed a so-called inspector general that released a report detailing vast mismanagement within the United Nations, particularly in the area of peacekeeping activities. All this is good news. A few years ago, former Attorney General Dick Thornburgh, in his capacity as Undersecretary General for Management, produced a similar report, and the United Nations did everything it could to hide it from public view.

So the fact that the United Nations has produced a report detailing its own mismanagement is an important development. The United Nations has been a mismanagement addict, and it has taken the vital first step to reform its addiction: recognition. The United Nations recognizes it has a serious mismanagement problem and it now is willing to admit it. It is about time.

However, one more crucial step needs to be taken: action. The U.N. must take action to correct its addiction, and that is why the withholding requirement in the conference report before us today is so important. By my interpretation of section 401(b) of Public Law 103–236, the President would be unable to make this certification because of the requirement in that section that the United Nations has procedures in place designed to ensure compliance with the recommendations of the inspector general.

In short, there must be enforcement of management reform, not simply recognition or discussion of the need for it. That is why the withholding requirement in the conference report before us is needed. We have made progress, but we have yet to achieve our ultimate goal: real reform within the United Nations. For that reason, we must stay the course. We must continue to insist on a withholding of taxpayer dollars until the United Nations has cleaned up its act.

Mr. President, I intend to speak in more detail on this matter in the near future, particularly on the subject of our contributions to the United Nations, and additional reforms that must be put in place. In the meantime, I am pleased that the conference report maintains our commitment to U.N. reform. I commend my friend from New Hampshire for his efforts to make sure this provision was included in the final bill. I look forward to working with him and all my colleagues to ensure our U.N. management reform goals are met.

Mr. DOLE. Mr. President, earlier this year, America recoiled in horror as we heard the tragic story of Stephanie Kuhen, a 3-year-old girl who was shot dead in her family's car after the car took a wrong turn and drove down a gang-infested alley in Los Angeles. Stephanie's grandparents have remarked, ironically and unfortunately with some truth, that their family would probably be safer in Bosnia.

In September, we read about 42-year-old Paul McLaughlin, a Massachusetts State prosecutor, devoted to his job, who was shot dead at point-blank range outside a commuter train station while returning home from work. At the time of the murder, police speculated that it may have been a gang-ordered assassination. Several officials remarked that ''the slaying was the kind of event that might happen in Italy, Colombia, or other nations where prosecutors, judges, and police are kidnapped or assassinated.''

And last August, three employees of a Capitol Hill McDonald's restaurant—18-year-old Marvin Peay, Jr; 23-year-old Kevin Workman; and a 49-year-old grandmother named Lillian Jackson—were all herded into the restaurant's basement freezer late one Saturday night and shot in the head. All three died instantaneously.

Mr. President, what I have just described did not take place in Bosnia or Italy or Colombia or some other country, but right here in America. These are real people. With real families. Feeling real pain. And dying real deaths. They are citizens of our country.

SOME FACTS ABOUT CRIME

We must put an end to this madness. If America wants to continue calling itself a civilized society, we can no

longer accept an annual crime tally of nearly 24,000 murders, 100,000 forcible rapes, 670,000 robberies, and more than 1 million aggravated assaults. We must stop tolerating the intolerable.

Listen to these facts.

Fact: For the first time in our Nation's history, the FBI estimates that a majority of all murders are committed by persons who are strangers to their victims. In a very real sense . . . no matter where we live or where we work. Americans are hostage to the vicious, random acts of nameless, faceless strangers.

Fact: More and more young people are resorting to violence. According to the Justice Department, the murder rate among 14-to-17 year-olds has increased by 165 percent during the past 10 years, fueled in large part by crack cocaine. If current trends continue, juvenile arrests may double by the year 2010.

Fact: Violent crime is destroying America's minority communities. The Justice Department estimates that a staggering 1 out of every 21 African-American men in this country can expect to be murdered, a majority rate that is twice the rate for U.S. soldiers during World War II.

Fact: The revolving prison door keeps swinging and Americans keep dying. At least 30 percent of the murders in the United States are committed by predators who should be behind bars, but instead are out on the streets while on probation, parole, or bail.

LAW ENFORCEMENT BLOCK GRANT

Now, Mr. President, this conference report will not solve the crime problem. The best antidote to crime is not a prison cell or more police, but conscience—that inner voice that restrains the passions and enables us to recognize the difference between right and wrong.

To put it simply: values count, not just in our lives, but in our society. There will never be enough prisons or police to enforce order if there is growing disorder in our souls.

But, of course, we have to start somewhere. Last year, I opposed the so-called crime bill because I believed it was a flawed Federal policy—too light on punishment and too heavy on pork, spending billions and billions of dollars on untested social-programs. This conference report tries to correct some of these excesses.

The report also rejects the ''one-size-fits-all approach'' of the current COPS Program by giving local communities more flexibility to determine what best suits their own unique law-enforcement needs. Is it more police? Better training? More squad cars? Or perhaps modern crime-fighting technology? As the Washington Post recently editorialized:

Because community policing has proved to be so effective and so popular with the public, many areas will spend the money as Washington intends. But if new technologies, more cars or a social service unit trained with juveniles are needed, why shouldn't local authorities have more choice? Word processors, a modernized telephone system or better lab equipment may not have the political appeal of 100,000 new cops. But for some cities, they may be a much better deal.

And let me emphasize that if a local community wants more police officers—needs more cops—it can use the block-grant funds for this very purpose.

TRUTH-IN-ADVERTISING

Mr. President, in the coming days, we will no doubt hear President Clinton denounce the Congress for attempting to repeal his so-called 100,000 COPS Program. But what the President will not say is that this program never existed in the first place. The current program fully funds only 25,000 new police officers, not the 100,000 we hear so much about. That is not just my opinion. It is the opinion of experts like Princeton University Prof. John Diiulio.

So, when it comes to the COPS Program, it is time for a little truth-in-advertising.

OTHER PROVISIONS

This conference report contains other important provisions: $10 million for the innovative police corps program; truth-in-sentencing grants that will help the States abolish parole for violent offenders; the Prison Litigation Reform Act, which will go a long way to reduce the number of frivolous claims file each year by litigation-happy inmates, the so-called frequent-filers; and $500 million to reimburse the States for the cost of incarcerating illegal aliens, including those who have committed crimes while in the United States.

Finally, I want to commend Senator JUDD GREGG, the manager of this bill, for his skill in developing this conference report and bringing it to the floor. Senator GREGG just recently assumed the chairmanship of the Commerce, Justice, State Subcommittee, and with today's action, he has proven that he is a very fast learner indeed.

Mr. LAUTENBERG. Mr. President, I want to go on record opposing a last minute addition to the statement of managers in the conference report on the Commerce, Justice, State and Judiciary appropriations bill, to which I object strenuously. On page 127 of the statement of managers there is a provision to have a deep ocean isolation study. This report language would have NOAA conduct an analysis of a particular patented technology that would be used for the disposal of dredge soil to the deep ocean.

Mr. President, I strongly object to this direction to NOAA. First, there was no mention of this issue in the House bill, the Senate bill, the Senate report or the House report. But, it is in the conference report.

Second, this is special interest legislation of the most egregious kind—it is intended to help one and only one company at the expense of the environment.

Third, the company had, in the past, a similar study provision in a Defense appropriations bill. In January, the Navy released its study that this technology was determined to be ''unacceptable from both production rate capability and because of handling systems problems.''

I objected strenuously against this study in 1993 because it would be a waste of Federal resources and because it was intended to lead to renewed disposal of sewage sludge in the ocean. Mr. President, the study has been completed, and the Navy determined the technology was not feasible. The money was wasted and yet, in these difficult budget times, a request is being made to do a similar study by a different agency of the Federal Government! When is enough enough?

Mr. President, our oceans are too valuable to be used as a garbage dump. Our oceans include diverse species that rival the tropical rain forests. Because of the rich environmental heritage of the oceans and the tremendous economic vitality of our coasts that are dependent on a clean ocean environment, I have worked to end the ocean dumping of sewage sludge and the proper handling of contaminated sediments. That is why I sponsored legislation to ban ocean dumping of sewage sludge and sponsored provisions in water resources development legislation that will help develop technologies to decontaminate dredged sediments.

Mr. President, this study is not just a study of whether a technology will work. It is a study about the feasibility of a technology that is designed to facilitate illegal activities.

The intent of this technology is to dispose of contaminated dredge materials. Clean dredged disposal is used beneficially on golf courses and other uses. However, the disposal of contaminants in the ocean that this technology contemplates is illegal above trace amounts under the Marine Protection Act and several international conventions.

Mr. President, the tourism industry in my state, the water recreation industry and users, and numerous environmental groups have rejected additional disposal of contaminated sediments as contemplated by this language. The public has spoken out forcefully and repeatedly against the ocean dumping of pollutants. And, the Navy has determined that this technology is not feasible and will lead to the release of contaminated toxic sediments into the water column.

Mr. President, I know that this report language is not binding on the Agency. Based on the fact a similar study has just recently been carried out, I strongly urge the Agency to ignore this ill-conceived and ill-considered language.

Mr. GREGG. Mr. President, I suggest the absence of a quorum and request the time be allocated equally to all sides.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Mr. President, on behalf of the leadership, I ask unanimous consent the 12 remaining minutes of the distinguished Senator from Arkansas be yielded back.

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

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum with the time assigned to all sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

COMMENDATION OF STAFF

Mr. HOLLINGS. Mr. President, again I would like to thank the professional staff who worked so hard on this appropriations bill. On the majority side I want to recognize David Taylor, Scott Corwin, Vas Alexopoulus, and Lula Edwards. And, of course, I would be remiss if I did not recognize Mark Van DeWater, our full committee's deputy staff director. Time and time again Mark worked to develop compromises that let this bill go forward. Finally, I want to recognize Emelie East, of our minority staff, who staffs this bill, foreign operations, military construction, and defense appropriations.

ORDER OF PROCEDURE

Mr. GREGG. Mr. President, I ask unanimous consent that all time be yielded back, except that there be 10 minutes reserved for the leader and 10 minutes reserved for the ranking member of the Appropriations Committee, Senator BYRD; that a vote be set to occur at 4 o'clock on final passage; that the yeas and nays be ordered; and, that, pending the 10 minutes being used by the leader, or the 10 minutes to be used by Senator BYRD, we be in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

REFORMATION OF THE FOREIGN AFFAIRS APPARATUS

Mr. HELMS. Mr. President, it is not exactly a secret that I introduced legislation many months ago to reform the foreign affairs apparatus of the United States by abolishing three wasteful, anachronistic Federal bureaucracies—the Agency for International Development, which we call AID around this place; the Arms Control and Disarmament Agency, which is called ACDA; and the U.S. Information Agency, USIA—and folding their functions into the State Department, thus saving billions of dollars.

Senators know the history of what has transpired since that day early this year when I offered that bill. There has been one delay after another. But I am hopeful that late this afternoon Senator KERRY and I will complete an agreement that will lead to a consummation of the activities so that we can have some ambassadors confirmed and some other things accomplished by the Senate Foreign Relations Committee and the U.S. Senate, which could have been done months ago had it not been for the objection to our having a vote on my bill.

That is all I ever asked. I did not ask that there be a victory or that the bill be passed. I asked only that there be a vote. But that was denied me. And the media, of course, do not make that clear. That is all right with me if it is all right with them. They are not very accurate about many things anyhow.

Many Senators are aware that Vice President GORE has been one of the most vigorous opponents of my proposal to abolish the Agency for International Development as an independent entity and place it directly under the purview of the Secretary of State—a proposal, I might add for emphasis, that has been supported from the very beginning by a majority in the U.S. Senate and endorsed by five former U.S. Secretaries of State.

As I understand it, Vice President Gore is in South Africa today. And while Al Gore, as we called him when he was a Senator, is there, I do hope that he will take the time to visit the South African mission of the Agency for International Development.

Let me point out that the Agency for International Development was created more than three decades ago as one of those temporary Federal agencies—temporary, don't you know.

Well, Ronald Reagan used to say that there is nothing in this world so near eternal life as a ''temporary'' Federal agency. And AID, the Agency for International Development, is one of them.

Let me get down to business. I have before me documented information disclosing that the Agency for International Development's inspector general has just completed an extensive investigation into abuses in U.S. foreign aid programs in South Africa involving millions upon millions of dollars of the American taxpayers' money. This investigation raises, obviously, serious questions about the contracting and hiring practices within the Agency for International Development's mission in South Africa, as well as the headquarters here in Washington, DC.

These questions range from whether AID officials unlawfully awarded multimillion-dollar Federal contracts to politically connected U.S. organizations, and they range from that point to whether AID also attempted to hire personnel on a basis other than the question, were the persons being hired qualified for the job?

This is not JESSE HELMS talking. This is the inspector general of the Agency for International Development.

Whether the laws have been broken will be decided after careful review of information that led the inspector general of the Agency for International Development to request the Department of Justice and the Office of Management and Budget to review the many, many pages of information already transmitted to the Justice Department and to OMB.

I will add, Mr. President, that this matter will be carefully examined by the Senate Foreign Relations Committee at the earliest practicable time.

Interestingly enough, the Agency for International Development operation in South Africa has been extolled and praised by Mr. Brian Atwood, whom President Clinton appointed to head the Agency for International Development. Now, Mr. Atwood calls the operation in South Africa AID's flagship program in Africa—a program that has spent, I might add, Mr. President, more than $450 million of the U.S. taxpayers' money in the past 5 years.

All right. Now, Mr. Atwood, in defending his agency explains that AID employees were simply overtaken with ''enthusiasm''—and that is his word—in awarding contracts in South Africa. And AID management suggests that this multimillion-dollar problem can be solved simply by giving a little ''sensitivity'' training to AID employees in South Africa.

That is Mr. Atwood's, and AID's, position as of now, as I understand it to be. It remains to be seen, of course, whether the American public will buy that explanation.

My own view is that the American people have a right to know exactly what is going on with AID's giveaway program in South Africa. Congress has an obligation to get to the bottom of it, and I for that reason have asked the distinguished Senator from Kansas, Mrs. KASSEBAUM, who chairs the African Affairs Subcommittee of the Senate Foreign Relations Committee, of which I am chairman, to schedule a hearing on this matter on December 14 at 2 p.m. Senator KASSEBAUM has indicated that she shares my concern about the inspector general's report, and she has readily agreed to schedule such a hearing. We will request the presence of members of AID's South Africa management as well as AID officials in Washington who directly oversee the South Africa program in order to give them an opportunity to explain to the Senate and to the American people precisely what has been going on in South Africa.

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

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I believe there has been a unanimous-consent request that has been acted upon relative to the continued business of this body. I wonder if I may ask unanimous consent that I may make a statement not lasting more than 5 or 6 minutes on section 609 which I think is the issue before this body.

Mr. HOLLINGS. Mr. President, 10 minutes has been reserved for the distinguished majority leader and also 10 minutes for the distinguished Senator from West Virginia. So within that framework, I would not object.

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

Mr. MURKOWSKI. Five minutes will suffice.

Mr. BYRD. Mr. President, I yield 5 minutes of my time to the Senator.

Mr. MURKOWSKI. I thank my friend, the senior Senator from West Virginia.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MURKOWSKI. Mr. President, this bill has a section, section 609, which I feel jeopardizes the new chapter in relations between the United States and Vietnam which began last July. With President Clinton's announcement at that time that he was prepared to establish full diplomatic relations with the Government of Vietnam, and with the subsequent steps to open an embassy and begin trade discussions over the last few months, the two-decade long campaign to obtain the fullest possible accounting of MIA's in Southeast Asia truly entered a new stage and a more positive phase. That progress I think is threatened by this section and I wish to go on record as opposing it.

I understand the objective of the authors of the amendment. They want, as I do, to resolve the issue of accountability of the MIA's, and they believe this is the best way to achieve that objective. And while I agree with the objective, I disagree with the means which they have proposed.

I supported the President's decision to establish relations. I have been over there a number of times. And I continue to believe, and evidence supports it, that increased access to Vietnam, not reduced access, leads to increased progress on the accountability issue.

Resolving the fate of our MIA's has been and will remain the highest single priority of our Government. Under no circumstances should it be any different. This Nation owes that to the men and women and the families of the men and women who made the ultimate sacrifice for this country and for freedom.

In 1986, I was chairman of the Veterans' Committee, and I was appalled to learn at that time that we had no firsthand information about the fate of the POW/MIA's because we had no access to the Vietnamese Government records or to the Government or to the military archives or to the prisons. We could not travel to crash sites. We had no opportunity to interview Vietnamese individuals or officials.

That has changed now. The American Joint Task Force, the JTF-FA personnel located in Hanoi now have access to Vietnam's Government and to its military archives and prisons. They are free to travel to crash sites and interview Vietnamese citizens and officials.

As a result of these and other positive developments, the overall number of MIA's in Vietnam has been reduced significantly through a painstaking identification process. Most of the missing involve men lost over water and other circumstances where survival and identification is doubtful.

Most, if not all, of the progress has come since 1991 when President Bush established the office in Hanoi devoted to resolving the fate of the MIA's and supported further activity by President Clinton. Opening this office ended almost two decades of isolation, a policy which, in my opinion, failed to meet our goals.

In 1993, opponents of ending our isolationist policy argued that lifting the trade embargo would mean an end to Vietnamese cooperation. Well, this was not the case. As the Pentagon assessment from the Presidential delegation's trip to Vietnam earlier this year notes, the records offered are ''the most detailed and informative reports'' provided so far by the Government of Vietnam on missing Americans.

So let me state firmly here that while we have made progress, we should not be satisfied, and we should continue to push for greater and greater results. But there are limits to the results we can obtain by potentially—potentially—turning to a failed policy which remains rooted in the past and is dominated by the principle of isolation. We have reached those limits. It is now time to continue a policy of full engagement with access and involvement.

Being represented in Vietnam does not mean forgetting our MIA's. Having an embassy there does not mean that we agree with the policies of the Government of Vietnam. But it does help us promote basic American values such as freedom, democracy, human rights, and the marketplace.

When Americans go abroad or export their products, we export an idea and an ideal. We export the very ideas that America went to fight for in Vietnam. Moreover, diplomatic relations give us greater latitude toward the carrot-and-stick approach. So do economic relations, as evidenced by the administration's trade team which recently visited Vietnam for the first time after relations were established.

Retaining diplomatic relations will also advance other important U.S. goals. A prosperous, stable and friendly Vietnam integrated into the international community will serve as an important impediment to Chinese expansionism. Normalization should offer new opportunities for the United States to promote respect for human rights in Vietnam.

Finally, competitive United States businesses which have entered into the Vietnamese market after the lifting of the trade embargo will have greater success with the full faith and confidence of the United States Government behind it. The amendment in question could jeopardize all this progress and put us back where we were several years ago, which is nowhere. Now I understand that the President plans to veto this bill for a variety of reasons, including because of this amendment. As the administration has told us, it ''regrets the inclusion of extraneous language in the bill related to the presence of United States Government facilities in Vietnam.'' As a result, I expect that the bill will come back to us, to the conference committee, to be considered again. I hope at that time this section will be removed, or at least modified in a way which will not stop progress down the road which has already led to many positive results.

Mr. President. Let me conclude by repeating what I said last July when we first moved toward establishing relations with Vietnam, when I said that I hope that step will continue this country's healing process. I think now, as I thought then, that the time has come to treat Vietnam as a country—and not as a war.

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

Mr. MURKOWSKI. I thank the Chair. And I again want to thank my good friend from West Virginia for his accommodation. I wish him a good day.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, both the chairman and the ranking member of the Commerce-Justice-State Appropriations Subcommittee deserve a great deal of credit for the many months of hard work—and it is hard work—that they have put into the fiscal year 1996 Commerce-Justice-State appropriations bill.

This is the first time that the distinguished Senator from New Hampshire [Mr. GREGG], has chaired the appropriations conference. He did so very ably. I congratulate Senator GREGG on his success and keeping his mind on track throughout the conference on this very important, complex appropriations bill.

I wish to recognize the outstanding efforts of the distinguished ranking member of the subcommittee, Senator HOLLINGS, on this bill. On November 9, 1966, a new Member came into this Senate. And for these 29 years and 28 days it has been my good fortune to serve with FRITZ HOLLINGS. He is a man of sterling character. He is absolutely

fearless. He is a man of great courage with supreme dedication to his work. He is smart, and he does what he thinks is best. It is the right thing to do.

It has been a pleasure for me to work with Senator HOLLINGS on the Appropriations Committee these many years. He has been a fine subcommittee chairman, has always been most cooperative with me in the years that I was chairman. I could always depend on him to carry his part of the load, and then some. His knowledge and expertise in all areas of the Commerce-Justice-State Subcommittee's jurisdiction are well known and unequaled in the Senate.

For two decades he has served on the Commerce-Justice-State Appropriations Subcommittee, served with great distinction, and has worked tirelessly throughout his years of service as a member of that subcommittee and as its chairman to ensure that the many important programs and activities that are funded by the subcommittee received fair treatment and equitable treatment, often at times of severe budgetary constraints.

I understand that the President has indicated he will veto this conference report for a number of reasons. I can assure all Senators that such a veto will in no way reflect upon the outstanding work of the chairman and ranking member, Senator GREGG and Senator HOLLINGS. The Senate and the American people are in their debt.

It is with great pleasure that I take this moment to express my deep appreciation to Senator HOLLINGS, a man whose heart is as stout as the Irish oak and as pure as the lakes of Killarney.

I also want to compliment the staff. He has an excellent staff, and so does Senator GREGG, the staff of the subcommittee; Mr. David Taylor and Mr. Scott Corwin for the majority; Mr. Scott Gudes for the minority. There is no better—no better—along with Lula Edwards and Emelie East. They deserve our gratitude and our thanks.

Now, Mr. President, we pass out a lot of encomiums in this body. But I try to be reserved in doing so. I want to close with just these words. I salute Senator HOLLINGS, my old friend of these 29 years and 28 days.

When a man does a deed that you greatly admire,
Do not leave a kind word unsaid
For fear to do so might make him vain
Or cause him to lose his head;
But reach out your hand and tell him, ''Well done,''
And see how his gratitude swells.
It is not the flowers we strew on the grave;
It's the word to the living that tells.

Mr. President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. My good friend, the distinguished Senator, has been so generous. I hasten to add I am not leaving. It would be most appropriate here for me to tell of my admiration in one sense, but then they would say it is tit for tat.

I have served under Senator BYRD as leader; I have served under him as our chairman. He is the one remaining in the U.S. Senate who maintains the decorum, the dignity, the civility that is so fundamental to the good working of this body. So to hear from him on this occasion—I join with him in congratulating our distinguished chairman of the subcommittee for his difficult and hard work. I have apologized in the sense of not being able to vote for the bill, but I think that is understood in the light of the constraints and what has been contained therein.

But let me genuinely thank my good friend. You make some good friends in this service here. And there is none better than my friend, BOB BYRD, the Senator from West Virginia, and I really thank him.

Mr. BYRD. I thank the Senator.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I also wish to thank the Senator from West Virginia, who has been of tremendous assistance to this committee, obviously. I was sort of dropped into this committee out of the clear blue, and with the help of the Senator from South Carolina, the Senator from West Virginia, Members on our side have been able to struggle through the effort. I think we have produced a bill that is, if not supported by the other side, hopefully at least respected by the other side.

I also wish to thank Senator HATCH, who was very helpful in this undertaking, and Senator HELMS, and especially the staff on both sides of the aisle who have already been mentioned, of course, Scott Gudes and Emelie East, and David Taylor and Scott Corwin, Lula Edwards, and Vasiliki Alexopoulos on our side. They worked incredible hours, just overwhelming hours, under tremendous intensity. I do not know really how they do it.

It is extremely impressive. I think what they all deserve is a good vacation in New Hampshire, and I hope they come. We would love to have them come up and relax.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to speak for about 8 minutes as in morning business.

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

LOW-INCOME HOME ENERGY ASSISTANCE

Mr. WELLSTONE. I thank the Chair. I thank my colleagues.

Mr. President, I rise to express my deep concern about the current state of funding for the Low-Income Energy Assistance Program [LIHEAP]. In the State of Minnesota last year there were about 110,000 households—over 300,000 men, women and children—who receive energy assistance. They received an average energy assistance benefit of about $360 per heating season.

That was last year. This year, given the huge cuts in LIHEAP funding already enacted, that grant is expected to be about $200, even though for these households during the heating season, the overall cost of their heating bill is somewhere between $1,800 and $2,000.

Last year, we funded this program at a little over $1.3 billion. We had a rescissions package which contained a cut of $319 million. On the Senate side, the appropriators proposed to fund this program at $900 million, and on the House side, it has been zeroed out.

In this bloodless debate that we too often have about the budget, I think sometimes we are completely disconnected from people's lives. That's why I would like to talk about what is going on in Minnesota right now, and what is going on in other cold-weather States. I speak about this with some sense of urgency. Last year, Minnesota received about $50 million in heating assistance. This year, we have received so far, after the last continuing resolution, about $9 million. Usually by this time, we have received about $20–$25 million.

The energy assistance program, I say to my colleagues who are not from cold-weather States, is really not a year-long program. It is effectively a 6-month program. You need to allocate the heating money now during the cold-weather months. It is truly an example of a program where you cannot do it over a 1-year period of time. You need to get the assistance to people now when they need it.

What we have going on right now with the way we have been funding this program that we are forcing people to freeze on the installment plan. That has to change. I hope there will be a change in the third continuing resolution which we'll likely have before this body next week.

Let me put my colleagues on notice: This will not be the last time I am going to speak about the Energy Assistance Program here on the floor. I intend to raise the alarm until something gets done on it.

It may be—and people may have a hard time understanding this—it may be that in Washington, DC, when it is 30 or 40 or 50 degrees, in my State of Minnesota, it can be 10 degrees below zero, and in some parts of the State, those are exactly the kinds of temperature with which we have been faced.

I want to give a couple of examples, just a few examples, of what this actually means to people who rely on LIHEAP benefits.

Nancy Watson is 55 years old. She is disabled. She lives in Clear Lake, MN. Her income is from SSI and medical assistance. It is $529 a month. She received her grant of $81 this year for energy assistance, and she does not know what she is going to do for the rest of the year.

Mr. President, in the State of Minnesota, there are people who have been cut off already from utilities. There are people who do not have propane or fuel in their tanks. There are people who do not have any heat at all, and who are having to struggle to patch together help from friends, churches, the Salvation Army—anywhere they can get it.

There are elderly people who have closed off all but one room of their homes. That is all the heating they can afford. There are people who have the thermostat turned down to 50 degrees. What are we going to do about that in the U.S. Congress?

Mr. President, Clara Mager is a 73-year-old resident of a town on Minnesota's Iron Range. She receives $675 per month in Social Security. She lives alone and raised six children on her own. She has just received her grant of $222. She owed her fuel provider, Inter-City Oil, $177, and on Monday had only 60 gallons left in the fuel tanks. She wonders what she is going to do at the end of December or in January or in February or in March.

In Blue Earth County, we have talked with a woman who is 90 years old. I will make a long story short. She is very worried about how she's going to heat her home, and she has now reached the conclusion, after having been self-reliant and self-sufficient her whole life, that she may have to move into a nursing home.

Mr. President, you can criticize the Low-Income Energy Assistance Program. There are imperfections in all our programs. But let me remind my colleagues that nationally, two-thirds of the energy households have an income of less than $8,000 a year. More than half have incomes below $6,000 a year. I tell my colleagues today, and I am going to speak about this over the next week: we have to do something now in this continuing resolution, we have to get adequate funding allocated to people who need it. The total cost of the Energy Assistance Program does not equal the cost of one B–2 bomber, and if we do not do anything, I say to my colleagues, Democrats and Republicans alike, I guarantee you that sooner or later there will be people in our country in the cold-weather States who will freeze to death. Then we will do something.

We should not wait. We should not wait. That would be wrong. We can do better. People expect more of us.

Nobody in 1994 voted for an elimination of an energy assistance program for the most vulnerable citizens in this country to make sure, whether they are elderly or whether they are children or whether people with disabilities or whether they are a working poor family, that they at least have this survival supplement. We cannot keep doing it this way. In my State of Minnesota, by now, we have just over $9 million that we are getting out to people. It is 10 degrees. It is 8 degrees. In northern Minnesota, it will reach zero or below tonight. There is a wind-chill below zero. People are cold, and we have to get this assistance out to those who need it.

I ask unanimous consent to have printed in the RECORD the text of a draft letter that is circulating among Senators, and that will soon be sent to Chairman HATFIELD, from the Northeast-Midwest Coalition. I was part of the effort, and urged that such a letter be done. Senator JEFFORDS from Vermont is co-chair of this coalition, and we have worked with him on the effort. It makes the case clearly for addressing the LIHEAP problem in the next CR.

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

U.S. SENATE,
Washington, DC, December 5, 1995.

Hon. MARK HATFIELD,
Appropriations Committee,
Washington, DC.

DEAR CHAIRMAN HATFIELD: We would like to call your attention to a serious problem with the interim funding for the Low Income Home Energy Assistance Program (LIHEAP). We believe that if we are to continue funding programs under the FY96 Labor/HHS Appropriations bill through a Continuing Resolution (CR), states must be allowed to draw down LIHEAP funds at a higher rate which takes into account their historical spending practices and which is sufficient to ensure the program's viability. Temperatures have dropped below freezing and there is snow on the ground in many parts of the country, but the language in both CRs that limits state draw downs to a proportional annual rate does not provide states sufficient funds to operate programs and meet the heating needs of their low income families.

In past years, states have drawn down a majority of their LIHEAP funds during the fall. This allows states to purchase fuel at lower rates, maintain continuity of service, avoid shut offs, and plan for the upcoming winter. Furthermore, nearly ninety percent of LIHEAP funds are used for heating assistance during the coldest months. The CR language requires that LIHEAP funds be spent out over a twelve month period. While this may leave funds for heating assistance in June, many low income families may not be able to heat their homes this winter.

We believe it is critical to safeguard this program which protects the elderly, the disabled, the working poor, and children. When it gets cold, these vulnerable Americans should not be forced to choose between heating and eating. Continuing delays in funding and limits on the payout rate will hamper states' ability to help the 5.6 million LIHEAP households survive the winter. We ask your assistance in ensuring that the bulk of LIHEAP funds can be spent during the cold weather months at a rate sufficient to meet the needs of low income families this winter. Thank you.

Sincerely,

JIM JEFFORDS.

Mr. WELLSTONE. Mr. President, I will be speaking about this in much more detail over the next week or so. We have to do something about this, I say to my colleagues.

On the last continuing resolution, finally I was able to get, and Senator JEFFORDS and others can talk about what's happening in their States, $2 million more for my State. That is it. But that is a pittance. We have long waiting lists of people who need the assistance, and adequate funds are not available. That's why people are having to go cold.

We have to get the funding out now, and we have to figure out a way in this continuing resolution to make sure that we do so; otherwise, Mr. President, there is no question that in the United States of America, this winter some people will likely freeze to death.

For God's sake, Democrats, Republicans, Independents, liberals, conservatives, and whatever other label you choose to call yourself or apply to yourself, let us try to do better, and let us try to make sure in this continuing resolution that we are able to get some of this funding out. We should not be freezing people on the installment plan. It is unconscionable. It is not right. We should not be doing this. We have to take some action.

I yield the floor.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 591 Leg.]

YEAS—50

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

NAYS—48

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

Reid	Rockefeller	Simon
Robb	Sarbanes	Wellstone

NOT VOTING—1

Moynihan

So the conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

PARTIAL-BIRTH ABORTION BAN ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of H.R. 1833, which the clerk will now report.

The legislative clerk read as follows:

A bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions.

The Senate resumed the consideration of the bill.

Pending:

Smith amendment No. 3080, to provide a life-of-the-mother exception.

Dole amendment No. 3081 (to amendment No. 3080), of a perfecting nature.

Pryor amendment No. 3082, to clarify certain provisions of law with respect to the approval and marketing of certain prescription drugs.

Boxer amendment No. 3083 (to amendment No. 3082), to clarify the application of certain provisions with respect to abortions where necessary to preserve the life or health of the woman.

Brown amendment No. 3085, to limit the ability of dead beat fathers and those who consent to the mother receiving a partial-birth abortion to collect relief.

AMENDMENT NO. 3083 TO AMENDMENT NO. 3082, AND AMENDMENT NO. 3081 TO AMENDMENT NO. 3080

The PRESIDING OFFICER. Under the previous order, there will now be 60 minutes equally divided for debate on amendments by Senators DOLE and BOXER.

The Senate will be in order.

Who seeks recognition?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask the Senator from California for 5 minutes, when the Senate is in order.

Mrs. BOXER. Mr. President, if you will bring the Senate to order?

The PRESIDING OFFICER. The Senator from Massachusetts has asked for 5 minutes from the Senator from California.

Mrs. BOXER. Yes, as soon as the Senate is in order. I do not believe we should start the clock running until the Senate is in order. Mr. President, this is a very serious difficult debate. Members on both sides feel very strongly. I will be happy to yield 5 minutes to the Senator from Massachusetts when the Chair believes the Senate is in order.

The PRESIDING OFFICER. The Senator will begin debate when there is order.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President I yield myself 4 minutes and 15 second and ask to be notified at that time.

Mr. President, I oppose the pending bill and strongly support the Boxer amendment to protect the lives and health of women. I came away from the November 17 Judiciary Committee hearing more convinced than ever that this bill is an unwise, unconstitutional——

Mrs. BOXER. Mr. President, if I could ask the Senator to yield, the Senate is not in order.

The PRESIDING OFFICER. Will the Senators to the left of me take their conversations off the floor?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I oppose the pending bill to outlaw medically necessary abortions, and I strongly support the Boxer amendment to protect the lives and health of women.

The Senate began to debate H.R. 1833 last month, a mere 6 days after the bill had passed the House. At first, the bill's Senate sponsors even refused the reasonable request that hearings be held. But a strong bipartisan majority of the Senate rejected that unacceptable approach. The bill was committed to the Judiciary Committee for a hearing. But there was no committee markup and the Senate does not have the benefit of a committee report.

The haste with which this bill is being pushed through the Senate is unseemly. Obviously, its proponents don't want their proposal examined too closely. They'd rather have the Senate vote on emotion, not on the facts.

I attended the November 17 hearing, and I came away from it more convinced than ever that this bill is an unwise, unconstitutional, and dangerous proposal.

The hallmark of good legislation is clarity. But the November 17 hearing revealed that this bill is unacceptable vague. In criminal legislation like this, that's unconstitutional, and it's quite likely that the courts will throw out this bill under the void for vagueness doctrine.

The problem is obvious. The Judiciary Committee heard from a panel of medical experts who could not even agree among themselves on the medical meaning of the legislative language, or on which procedures might be banned. Dr. Courtland Robinson of Johns Hopkins University called the language ''vague, not medically substantiated, and just not medically correct . . . the name [partial-birth abortion] did not exist until someone who wanted to ban an abortion procedure made up this erroneous, inflammatory term.''

The bill's very vagueness itself threatens the lives and health of American women. In the absence of a clear definition of what is outlawed, doctors will decline to perform any abortion that a prosecutor or jury might later find objectionable.

Prof. Louis Michael Seidman of Georgetown Law Center testified: ''If I were a lawyer advising a physician who performed abortions, I would tell him to stop, because there is just no way to tell whether the procedure will [violate this law].''

Dr. Robinson, who has practiced medicine for over 40 years, expressed the fear that if doctors are unwilling to perform needed abortions, women will resort to the back-alley methods that were used before safe, legal abortions became available. He testified:

> In the 1950's in New York, I watched women die from abortions that were improperly done. By banning this technique, you would, in practice, ban most later abortions altogether by making them virtually unavailable. And that means that women will probably die. I know. I've seen it happen.

Despite the bill's apparently deliberate vagueness, the one activity it clearly bans is a procedure known as ''intact dilation and extraction'' or ''D&E'' surgery. There are perhaps 450 such operations performed in the United States each year, and they involve ''wanted pregnancies gone tragically awry,'' according to Dr. Mary Campbell of Planned Parenthood, who testified at the hearing. Dr. Campbell explained that when emergency conditions threaten the life or health of the pregnant woman, this procedure is safer than any other abortion method, such as induced labor or caesarean section.

Depending upon the position of the fetus in the womb, a woman is 14 times as likely to die from a C-section as from a D&E, and twice as likely to die from induced labor as from a D&E, according to Dr. Campbell. C-sections create an increased risk of rupture of the uterus in future pregnancies.

The bill's supporters ignore this compelling medical testimony and the scholarly articles that support it. They rely instead on a single quotation from a single doctor to the effect that 80 percent of these abortions he performs are ''elective.'' But proponents of the bill are grossly distorting what that doctor said. They never complete the quotation—the doctor stated that he is referring to abortions before the sixth month of pregnancy.

The Supreme Court has made plain that in the case of such pre-viability abortions, a woman may elect to terminate her pregnancy without the undue interference from the Government. After viability, of course, there are no elective abortions. As Dr. Campbell noted emphatically, ''third trimester abortion for healthy babies is not available in this country.* * * Occasionally, someone comes to see me who thinks she is 10 weeks pregnant; it turns out she is 32 weeks pregnant. I don't say, 'where can we get you a third-trimester abortion.' I say, 'You will be having a baby.' ''

The Judiciary Committee heard the facts about the D&E procedure from doctors. We also heard moving testimony from two women who needed and obtained this surgery to avoid serious health consequences.

Coreen Costello is a pro-life Republican. She learned that the fetus she

was carrying had ''a lethal neurological disorder. * * * Due to swelling, her head was already larger than that of a full-term baby. Natural birth or an induced labor were impossible.'' The D&E procedure, she said, ''greatly lowered the risk of my death. * * * There was no reason to risk leaving my children motherless if there was no hope of saving [my baby].''

Vicki Wilson testified about an equally tragic pregnancy. As she told the committee, ''approximately 2/3 of my daughter's brain had formed on the outside of her skull. * * * Because of the size of her anomaly, the doctors feared that my uterus would rupture in the birthing process, most likely rendering me sterile.'' She pleaded with the committee: ''There will be families in the future faced with this tragedy because prenatal testing is not infallible. I urge you, please don't take away the safest procedure available. This issue isn't about choice, it's about medical necessity.''

The bill's supporters obviously cannot deal with the force of this firsthand testimony. So what do they do? They now suggest that the surgical procedures that saved Coreen Costello and Viki Wilson were not ''partial-birth abortions.''

That devious retreat speaks volumes about the vagueness of this bill, and the uncertainty it is designed to create. Even its sponsors don't know what it means. But let there be absolutely no mistake. The procedure that these two witnesses underwent was an intact D&E. It was the procedure depicted on Senator SMITH's charts. It is the procedure that the bill's proponents say they object to. It is the procedure that saved the lives and health of Coreen Costello and Vicki Wilson. And now the bill's supporters pretend the bill wouldn't apply to those cases. If it doesn't apply to those cases, it will not apply to any cases.

These two brave women do not stand alone. Five other women submitted testimony for the record describing similar cases. Thousands of women owe their lives or their health to the availability of a surgical procedure that the U.S. Senate is on the verge of outlawing and sending any doctor to prison who performs it.

On its face, this bill is an unprecedented intrusion by Congress into the practice of medicine. Its passage would represent the first time in American history that Congress has outlawed a specific medical procedure and imposed criminal penalties on doctors for treating their patients. As Dr. Robinson told the Judiciary Committee: ''With all due respect, the Congress of the United States is not qualified to stand over my shoulder in the operating room and tell me how to treat my patients.''

This political excursion into the practice of medicine is plainly inappropriate. So why is it before the Senate today? The answer is simple. The right-to-life movement has brought this bill to Congress in the hope that its passage will advance their goal of discrediting Roe versus Wade and eventually outlawing all abortions. The bill's supporters in the House boasted of such a strategy. At least one witness at the committee hearing spoke frankly of this broader agenda. Helen Alvare of the Catholic Conference testified in support of the bill. She responded to questioning by Senator FEINGOLD that she absolutely favored criminal penalties for all abortion procedures. As she said, ''If abortion proponents are afraid that somehow this [bill] opens the public mind to considering abortion further, they are certainly right.''

That is why supporters of this bill do not mind its vagueness. They do not really want to imprison the doctors who perform this procedure. They want to intimidate all doctors into refusing to perform any abortions at all.

Before we head down that dangerous road, we should remember that Roe versus Wade and the subsequent Supreme Court decisions affirming a woman's right to choose are based squarely on the Constitution. The constitutional basis of the decision has been reaffirmed by the Supreme Court in case after case since 1973. In its decision in Planned Parenthood versus Danforth, the Supreme Court specifically invalidated a Missouri law that banned a particular abortion procedure. The Court held that the Missouri law might force ''a woman and her physician to terminate her pregnancy by methods more dangerous to her health than the method outlawed.''

This bill is a frontal assault on settled Supreme Court law. Basically, it asks the Supreme Court to overrule Roe versus Wade.

At the hearing, Professor Seidman of Georgetown Law Center identified a half dozen independent reasons why the bill is unconstitutional. The most disturbing of all the reasons is the bill's failure to permit abortions that are necessarily to preserve the life of the woman or to protect her from serious adverse health consequences.

The Boxer amendment would at least remedy this most glaring defect. It states clearly that the criminal prohibition in the bill will not apply in the case of pre-viability abortions, or in the case of abortions that in the medical judgment of the attending physician are necessary to preserve the life of the mother or avoid serious, adverse health consequences.

Every Member of the Senate who supports Roe versus Wade should support the Boxer amendment. So should every Member of the Senate who wants to protect the lives and health of American women.

In contrast, the Smith/Dole version of the exception is grossly inadequate. It fails to address the situation where an abortion is necessary to avoid serious adverse health consequences. The Boxer amendment protects both the life and the health of the woman. The Smith/Dole amendment protects only the woman's life.

Senator SMITH and Senator DOLE know how to write a genuine life-of-the-mother exception. The model is obvious—the long-standing Hyde amendment in Medicaid, which allows Medicaid to pay for abortions in cases where it is necessary to save the life of the mother.

But Senator SMITH and Senator DOLE don't want a real exception for the life of the mother. In fact, their language does not even protect a woman's life. It contains two gaping loopholes, and these loopholes make it meaningless.

First, the Smith/Dole amendment limits the types of life-threatening situations in which the exception applies. Only threats to a woman's life that arise from ''a physical disorder, illness or injury'' are covered. It does not cover the threat to a woman's life that may arise from the pregnancy itself, since pregnancy is not a ''physical disorder, illness or injury.'' Coreen Costello, for example, did not have an illness like cancer or diabetes that threatened her life. The threat to her life arose from her pregnancy itself, and would not be covered by the Smith/Dole exception.

Second, the Smith/Dole exception is conditioned on whether ''any other medical procedure would suffice'' to save the woman's life. This proviso is an outrageous example of second-guessing a doctor's judgment. Doctors who had literally saved a patient's life could find themselves in a Federal prison because a prosecutor and a jury concluded after the fact that the patient's life could also have been saved using a different medical procedure that offended Congress' sensibilities less.

What doctor would take that chance? None. The Smith/Dole exception is a sham. It provides no significant additional protection to doctors who want to save the life of the woman.

Few aspects of the lives of citizens are as sensitive and as deserving of privacy as the relationship between patients and their physicians. Several years ago, we debated a proposal to gag physicians and prevent them from counseling women about abortion. But this bill makes the gag rule debate pale by comparison. It puts the Federal Government—indeed, Federal law enforcement officers—directly into the doctor's office in the most intrusive way.

The procedure involved in this case is extremely rare. It involves tragic circumstances late in pregnancy where the mother's life or health is in danger. The Federal Government has no business intruding into these family decisions at all, and certainly not in so misguided a fashion.

The laws in 41 States already regulate post-viability abortions. The appropriations of medical practices is overseen by state and local health departments, medical societies, hospital ethical boards, and other organizations. The Federal criminal law is a preposterous means of regulating the highly personal, individual decisions

facing families with tragic pregnancies.

Coreen Costello told the Judiciary Committee: ''We are the families that ache to hold our babies, to raise them, to love and nurture them. We are the families who will forever have a hole in our hearts. We are the families that had to choose how our babies would die. Each one of you should be grateful that you and your families have not had to face such a choice. I pray that no one you love ever does. Please put a stop to this terrible bill.

I join Coreen Costello in urging the Senate to defeat this bill. The test for every male Senator in this Chamber is very simple—would you deny this procedure to your wife or daughter if it's needed to save her life or health? Would you send her doctor who performed it to jail?

This bill is medical malpractice. The Senate should stop practicing medicine without a license. This bill should be defeated.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I yield as much time as he might require to the distinguished Senator from Indiana, Senator COATS.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, Americans have honest disagreements over the subject of abortion. Strong convictions often lead to strident rhetoric, at times straining the bounds of civil discourse. Labels and name calling too easily substitute for persuasion as a means of winning the hearts and minds of fellow citizens. Extremism and fanaticism are served up as daily fare, often being dismissively attached to those with strong pro-life views.

And yet there are times when strong words are necessary, when truth, raw and exposed, merits an apt label. There is only one issue at stake here: It is an affront to humanity and justice to kill a kicking infant with scissors as it emerges from its mother.

This legislation is not the expression of extremism. Only the procedure itself is extreme—extreme in its violence, extreme in its disregard for human life and dignity.

We have listened to the words of an eyewitness to this procedure. So we know what the procedure is. A prochoice nurse who assisted an abortionist in this procedure described the procedure. I do not like to describe the procedure on this floor. I do not like to read the procedure. But I know one thing. I cannot condone or support this procedure. And, if we are going to vote with a clear understanding of what it is we are dealing with, we need to understand the procedure.

I quote from this pro-choice nurse who assisted an abortionist in this procedure.

What I saw is branded on my mind forever . . . Dr. Haskell went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's body and the arms—everything but the head. The doctor kept the head right inside the uterus. . . .

The baby's little fingers were clasping and unclasping, and his little feet were kicking. Then the doctor stuck the scissors in the back of his head, and the baby's arms jerked out, like a startled reaction, like a flinch, like a baby does when he thinks he is going to fall.

The Doctor opened up the scissors, stuck a high-powered suction tube into the opening, and sucked the baby's brains out. Now the baby went completely limp.

I was really completely unprepared for what I was seeing. I almost threw up as I watched Dr. Haskell doing these things.

Next, Dr. Haskell delivered the baby's head. He cut the umbilical cord and delivered the placenta. He threw the baby into a pan, along with the placenta and the instruments he had just used. I saw the baby move in the pan. I asked another nurse, and she said it was just ''reflexes.''

I had been a nurse for a long time, and I have seen a lot of death—people maimed in accidents, gunshot wounds, you name it. I have seen surgical procedures of every sort. But in all my professional years, I had never witnessed anything like this.

The woman wanted to see her baby, so they cleaned up the baby and put it in a blanked and handed it to her. She cried the whole time. She kept saying, ''I am so sorry, please forgive me.'' I was crying, too. I couldn't take it. That baby boy had the most perfect angelic face I think I have ever seen in my life.

The only possible way to defend this procedure is with evasion and misrepresentation.

It is said that this procedure is rare. But we are safely talking about hundreds of these abortions annually. And as a matter of unalienable human rights, it should not only be rare, it should be nonexistent.

I suggest, if we are talking about 1 abortion with this procedure rather than 600, the issue is exactly the same.

It is said that the child feels nothing. But we know that a mother's anesthesia does not eliminate her child's pain. And we know that a child killed in this procedure feels exactly what a preemie would feel if its doctors decided to kill it in its nursery.

It is said that this procedure is done to save the life of the mother. But we know that this procedure is not without substantial risk for the mother. And, in fact, its primary purpose is the convenience of the abortionist.

It is said that partial birth abortions are part of the mainstream of medicine. But we know that the AMA Council on Legislation stated that this practice is not a ''recognized medical technique'' and that the ''procedure is basically repulsive.''

I am quoting. The AMA Council on Legislation said that this procedure is ''basically repulsive.'' I think anyone who understands the procedure and knows the description of the procedure can come to no other conclusion.

It is said that only prolife fanatics support this legislation. But how could this possibly apply to Members of the House like PATRICK KENNEDY, SUSAN MOLINARI, and JOHN DINGELL? One prochoice Member of the House commented, ''It undermines the credibility of the pro-choice movement to be defending such an indefensible procedure.''

When we strip away all these arguments, we are left an uncomfortable truth: This procedure is not the practice of medicine, it is an act of violence.

It is hard to clearly confront reality in this matter, because clarity causes such anguish. But that reality is simple and terrible: The death of a child with the most perfect angelic face I think I have ever seen in my life. That face should haunt us and shame us as a society. It should cause us to grieve—but more than that, it should cause us to turn back from this path to barbarism.

Mr. President, I ask unanimous consent to have printed in the RECORD an article written by George Will called, ''Fanatics For 'Choice.' Partial-birth abortions, sonogram photos and 'the idea that the fetus means nothing.' ''

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

FANATICS FOR ''CHOICE''

(By George F. Will)

Americans are beginning to recoil against the fanaticism that has helped to produce this fact: more than a quarter of all American pregnancies are ended by abortions. Abundant media attention has been given to the extremism that has tainted the right-to-life movement. Now events are exposing the extraordinary moral evasions and callousness characteristic of fanaticism, prevalent in the abortion-rights lobby.

Begin with ''partial-birth abortions.'' Pro-abortion extremists object to that name, preferring ''intact dilation and evacuation,'' for the same reason the pro-abortion movement prefers to be called ''pro-choice.'' What is ''intact'' is a baby. During the debate that led to House passage of a ban on partial-birth abortions, the right-to-life movement was criticized for the sensationalism of its print advertisements featuring a Dayton nurse's description of such an abortion:

''The mother was six months pregnant. The baby's heartbeat was clearly visible on the ultrasound screen. The doctor went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's body and the arms—everthing but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out.''

To object to this as sensationalism is to say that discomforting truths should be suppressed. But increasingly the language of pro-abortion people betrays a flinching from facts. In a woman's story about her chemical abortion, published last year in Mother Jones magazine, she quotes her doctor as saying, ''By Sunday you won't see on the monitor what we call the heartbeat.'' ''What we call''? In partial-birth abortions the birth is kept (just barely) partial to preserve the legal fiction that a baby (what some pro-

abortion people call ''fetal material'') is not being killed. An abortionist has told The New York Times that some mothers find such abortions comforting because after the killing, the small body can be ''dressed and held'' so the (if pro-abortionists will pardon the expression) mother can ''say goodbye.'' The New York Times reports, ''Most of the doctors interviewed said they saw no moral difference between dismembering the fetus within the uterus and partially delivering it, intact, before killing it.'' Yes.

Opponents of a ban on partial-birth abortions say almost all such abortions are medically necessary. However, an abortionist at the Dayton clinic is quoted as saying 80 percent are elective. Opponents of a ban on such abortions assert that the baby is killed before the procedure, by the anesthesia given to the mother. (The baby ''undergoes demise,'' in the mincing words of Kate Michelman of the National Abortion and Reproductive Rights Action League. Does Michelman say herbicides cause the crab grass in her lawn to ''undergo demise''? Such Orwellian language is a sure sign of squeamishness.) However, the president of the American Society of Anesthesiologists says this ''misinformation'' has ''absolutely no basis in scientific fact'' and might endanger pregnant women's health by deterring them from receiving treatment that is safe.

Opponents of a ban say there are only about 600 such procedures a year. Let us suppose, as not everyone does, the number 600 is accurate concerning the more than 13,000 abortions performed after 21 weeks of gestation. Still, 600 is a lot. Think of two crashes of jumbo airliners. Opponents of the ban darkly warn that it would be the first step toward repeal of all abortion rights. Columnist John Leo of U.S. News & World Report says that is akin to the gun lobby's argument that a ban on assault weapons must lead to repeal of the Second Amendment.

In a prophecy born of hope, many pundits have been predicting that the right-to-life ''extremists'' would drastically divide the Republican Party. But 73 House Democrats voted to ban partial-birth abortions; only 15 Republicans opposed the ban. If the ban survives the Senate, President Clinton will probably veto it. The convention that nominated him refused to allow the Democratic governor of Pennsylvania, Bob Casey, who is pro-life, to speak. Pro-choice speakers addressed the 1992 Republican Convention. The two presidential candidates who hoped that a pro-choice stance would resonate among Republicans—Gov. Pete Wilson, Sen. Arlen Specter—have become the first two candidates to fold their tents.

In October in The New Republic, Naomi Wolf, a feminist and pro-choice writer, argued that by resorting to abortion rhetoric that recognizes neither life nor death, pro-choice people ''risk becoming precisely what our critics charge us with being: callous, selfish and casually destructive men and women who share a cheapened view of human life.'' Other consequences of a ''lexicon of dehumanization'' about the unborn are ''hardness of heart, lying and political failure.'' Wolf said that the ''fetus means nothing'' stance of the pro-choice movement is refuted by common current practices of parents-to-be who have framed sonogram photos and fetal heartbeat stethoscopes in their homes. Young upscale adults of childbearing age are a solidly pro-choice demographic group. But they enjoy watching their unborn babies on sonograms, responding to outside stimuli, and they read ''The Well Baby Book,'' which says: ''Increasing knowledge is increasing the awe and respect we have for the unborn baby and is causing us to regard the unborn baby as a real person long before birth . . .''

Wolf argued for keeping abortion legal but treating it as a matter of moral gravity because ''grief and respect are the proper tones for all discussions about choosing to endanger or destroy a manifestation of life.'' This temperate judgment drew from Jane Johnson, interim president of Planned Parenthood, a denunciation of the ''view that there are good and bad reasons for abortion.'' So, who now are the fanatics?

Mr. COATS. With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, I yield myself 2 minutes, and then I will yield directly to Senator SPECTER.

I wish to put a face to the women in this debate, so night after night as Senator SMITH and I have debated this issue, I have shown the faces of different families who have had to face this tragedy who are never shown on the posters that the other side has used during this debate. Those are the faces that I think are very, very crucial and very, very important.

This is Coreen Costello about whom Senator KENNEDY commented. This is a woman who describes herself as a pro-life Republican who underwent this procedure so she could live to see her other children grow.

Why on Earth would we in the Senate, knowing nothing about medicine, ban a procedure that some doctors testified before us at the Judiciary Committee saves lives like this and gives these children a mother.

I would say that as Senator COATS read the quote from the nurse, what he failed to say is she had worked for 3 days in this clinic in a temporary capacity. The fact is that her supervisor wrote the following, and I would place it in the RECORD:

Miss Pratt—

This nurse—

Absolutely could not have witnessed fetal movement as she describes. We do not train temporary nurses in second trimester dilation and extractions since it is highly technical and would not be performed by someone in a temporary capacity.

He also failed to mention that the American Nurses Association, which represents 2.2 million nurses, who learn to save lives, strongly opposes this legislation. They do not believe it is humane to deprive women such as Coreen Costello and their beautiful families of a chance to live. So we will be talking about that.

And now I would yield 4 minutes to the Senator from Pennsylvania, Mr. SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from California.

Mr. President, I support both of the pending amendments, the amendment offered by the distinguished majority leader, Senator DOLE, and the amendment offered by the distinguished Senator from California, Mrs. BOXER.

I believe that the broader amendment, the Boxer amendment, is the preferable one because it articulates the basic constitutional standard which was setforth in Row v. Wade and upheld in Casey v. Planned Parenthood in 1992, an opinion written by three Justices appointed by Presidents Reagan and Bush.

When you talk about the life of the mother and the health of the mother, conditioning the health on ''serious adverse health consequences,'' that is the constitutionally protected doctrine. When you talk about the language of the Dole amendment, which I intend to support, it is not in the blanket terms of life of the mother as in the Hyde amendment or the traditional amendments which are offered on appropriations bills which make an exception for life of the mother but instead talks about ''saving the life of the mother whose life is endangered by a physical disorder, illness or injury, provided that no other medical procedure would suffice for that purpose.''

That language is hard to interpret at best, and I do believe would place substantial doubt in the minds of many doctors who would be called upon to try to figure out what it means.

This is a medical procedure which is chilling beyond any question, and we do at the present time have a line drawn as to when there is someone alive protected by the laws against homicide and infanticide and the constitutional protections which apply on the medical procedure of abortions.

We had only 1 day of hearings on this matter. The day we had was certainly preferable to having no hearings at all, but we were unable to get on relatively short notice, because we had a very limited time span, the doctors who were really familiar with these procedures. The fact is that those who are familiar were reluctant to step forward and offer medical judgments. But we heard very profound testimony from physicians who expressed the concern about having legislation in this field where it is very difficult to start to draw lines about what medical practices and what medical procedures ought to be.

There is so much to be said for the proposition that it is between the doctor and the patient as to what is necessary for the life of a mother, which is at least the most restrictive standard which ought to be adopted in clearcut terms and really is not by the amendment offered by the distinguished majority leader but really ought to be extended life of the mother or health of the mother which has been established by the constitutional parameters by the Supreme Court of the United States.

We have legislation which is very profound in its import, which had one limited hearing in the House, one limited hearing in the Senate, and which we will be legislating upon which will leave many, many open questions and many doubts on a very, very serious medical procedure.

So, at a minimum, Mr. President, I hope that the Boxer amendment would

be adopted as well as the Dole amendment.

The PRESIDING OFFICER. The 4 minutes yielded to the Senator from Pennsylvania have expired.

The Senator from New Hampshire.

Mr. SMITH. Mr. President, how much time is available on our side.

The PRESIDING OFFICER. There are 22 minutes, 14 seconds.

Mr. SMITH. And the other side?

The PRESIDING OFFICER. There are 19 minutes exactly.

Mr. SMITH. I will yield 5 minutes to the Senator from Texas, Mr. GRAMM.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I wish to begin by congratulating our dear colleague from New Hampshire. First of all, I wish to congratulate him for his leadership on this issue. I wish to congratulate him for the way that he has handled the issue. I hope that we are successful today in ending this procedure which I believe no civilized society can condone.

This is not an issue that I had heard discussed before on the Senate floor until one day I came over to the floor to speak on another subject, and the distinguished Senator from New Hampshire was describing this procedure. Questions were raised as to whether someone might be offended by the description. I rose simply to make the point that if we are offended by the description of the procedure, surely we have to be offended by the fact that the procedure is occurring in America today.

I joined the distinguished Senator from New Hampshire as his original cosponsor when he introduced the bill. There were only two of us to begin with on the bill. That number has grown.

I do not know that I can add much to this debate. But let me try to sum up my feelings on the issue. The Dole amendment, which is now pending, removes any doubt about the fact that the life of the mother and any threat to the life of the mother is a defense for using this procedure. If the mother's life is in danger, this procedure can be used.

So the question really boils down to whether a civilized society can condone this procedure when the life of the mother is not at risk. And I submit this: We have heard the description. We have heard testimony of a nurse who witnessed this procedure first-hand. It really boils down to this. This procedure is almost always used with a late-term baby, which is generally viable outside the womb. And when the baby is 3 inches away from the full protection of the Constitution, the baby's life is terminated in a violent manner that I think is objectionable in a civilized society.

The question is, Are we going to stop it? I remind my colleagues, this is a vote about banning a procedure when the mother's life is not in danger. The child is delivered feet first, and when only the head of the child remains in the womb, its life is terminated—just 3 inches away from the full protection of the Constitution.

This amendment bans no other type of abortion. It simply bans this procedure, which I believe is offensive, and which I believe is unacceptable in a civilized society.

I hope our colleagues will vote for the Dole amendment because it formalizes what those of us who were for the Smith proposal to begin with understood, and that is, the life of the mother exception was included to begin with. This further clarifies it for someone who is concerned about that. And I think it is a legitimate concern, though I was satisfied with the original language. But with the Dole amendment adopted, I think we have a clear-cut choice. I hope our colleagues will vote for the Dole amendment, against the Boxer amendment, and then vote for the Smith proposal.

I think it is the right thing to do. I am very proud to associate myself with the distinguished Senator from New Hampshire on this issue. I reserve the remainder of our time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I plan to yield to the Senator from Maine, Senator SNOWE, in a moment.

I wanted to answer a couple points made by my friend from Texas. First, he did describe the usual life-of-the-mother exception, which we voted on many times in the Senate, which is usually the Hyde language. That is not the language in the Dole amendment. The language in the Dole amendment, although described as life-of-the-mother, relates to a woman with a pre-existing condition, not to situations that we are talking about where the woman's life is in danger due to the pregnancy itself.

So the only real life-of-the-mother exception is the Boxer amendment. But we will support both Dole and Boxer because under the Dole amendment two or three women may be saved a year. Under the Boxer amendment you will save more women like Coreen and others. So we would advise Senators to vote for both.

I want to say that I am very proud that we reached across the aisle here and the Boxer amendment is supported by Senator BROWN, Senator SPECTER, Senator SNOWE, and also on our side, Senators MURRAY, MOSELEY-BRAUN, and LAUTENBERG.

At this time I yield 4 minutes to the Senator from Maine, Senator SNOWE.

Ms. SNOWE. I thank the Senator for yielding.

Mr. President, Members of the Senate, I rise in support of the amendment that has been offered by my colleague from California, Senator BOXER. I think there is no question in light of the testimony that was presented to the Judiciary Committee during a hearing on this legislation, when many of us advocated that this legislation go to committee so that we would have a chance to hear first hand from those women who would be affected by this kind of legislation, that without a doubt this amendment becomes even more important, more crucial, more vital to women's health.

Twenty-two years ago the Supreme Court handed down the Roe versus Wade decision. It said that the woman's interest and decisions in reproductive matters should remain paramount. It also said the States could ban abortion in the last trimester. But they also had to include exceptions for when the life and health of the mother is in danger—let me repeat—as long as they allowed exceptions for cases in which a woman's life and health is endangered.

The Supreme Court has reaffirmed that decision time and time again. Forty-one States ban abortion in the last trimester, but they provide exceptions for the life and health of the mother, as is constitutionally required by the Roe versus Wade decision. That is what the Boxer amendment does. It upholds that decision providing for the life and health of the mother. The Supreme Court recognized, in its wisdom, that there would be certain limiting, exceptional, tragic circumstances that may require an abortion in the final trimester. That is a decision that has to be made between the doctor and his patient.

Without such an exception, without providing for life and health exceptions, innocent women are harmed. I have been somewhat amazed by some of the discussion that has taken place here on the floor. These are not casual decisions. These are not decisions that are made lightly. This procedure is not performed for sex selection.

These are tragic and compelling circumstances under which a woman has to make this decision. That was verified and reinforced by the testimony presented by so many women before the Judiciary Committee recently. It was compelling testimony. These are heart-wrenching decisions and very difficult ones. These are procedures that are rarely performed, seldom performed. But there are times in which they have to be performed to save the life of the mother or to prevent drastic consequences to her health. Those are the facts.

There have been 450 such procedures performed annually. They are so rare that they amount to 0.04 percent in the last trimester. Now we are talking about criminalizing a procedure that can save the life and the health of the mother. Now we are saying that political judgment will override medical judgment.

I cannot imagine that any doctor, under the language in this legislation, if this amendment is not accepted, would be willing to take an action that is the safest and the most appropriate course, given the criminal prosecution involved in this legislation, unless we

accept the Boxer amendment that provides for the exception in cases of life and health.

One doctor was quoted in the New York Times recently. He said, ''I don't want to make medical decisions based on congressional language. I don't want to be that vulnerable. It's not what I want for my patients.''

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

Mrs. BOXER. I yield the Senator an additional 60 seconds.

The PRESIDING OFFICER. The Senator is recognized for an additional 60 seconds.

Ms. SNOWE. Another doctor, Dr. Robinson, an OB-GYN at Johns Hopkins, testified before the Judiciary Committee:

> Telling a doctor that it is illegal for him or her to perform a procedure that is safest for a patient is tantamount to legislating malpractice.

So what we are doing under this legislation if we do not accept the Boxer amendment is saying to doctors, we want you to perform more dangerous, more traumatic procedures for the woman, even if it is against their best medical advice; for example, caesarean sections, that would require four times the risk of death as vaginal delivery. In fact, a woman is 14 times more likely to die from a caesarean section than from the procedure that this legislation seeks to outlaw.

Induced labor carries a potentially life-threatening risk and threatens the future fertility of women by potentially causing cervical lacerations and hysterectomies which leave women often unable to have children for the remainder of their lives.

As one professor said during the hearing, the only thing that this procedure does is to channel women from one less risky abortion procedure to another more risky abortion procedure. That is what we are doing here. He said that the Government does not have a legitimate interest in trying to discourage that.

I hope that we will not throw women's lives and women's health into limbo by rejecting this legislation. I hope that they support the Boxer amendment.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I do not need time at this point.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I thank the Senator from New Hampshire for yielding. I want to congratulate him on the work he has done. He has been here many, many days and many, many hours debating a very difficult, emotional issue.

I have been in the U.S. Senate and the House of Representatives now for 5 years. I have never spoken on the floor of either body on the issue of abortion. I never felt in my heart comfortable coming to the floor and talking about legislating the issue of abortion.

I thought, as do many folks who vote pro-life here, that the issue is one that we have to educate and we have to change hearts and we have to go out to the public and sensitize the public to the horrors of abortion in this country. I say that as someone who is pro-life, but I think there are people who are pro-choice who believe also that abortion is wrong, it should be minimized in this country. So I always felt uncomfortable talking about legislating abortion.

I have to say, I felt compelled to come up and talk about this. This is not about pro-life or pro-choice. This is about a horrific procedure that should shock the conscience of anyone who has heard how this procedure is done.

The Senator from Maine just said, ''Well, you are going to take folks and force them from one risky procedure to another risky procedure. That may be true, but this risky procedure shocks the conscience of anyone who has heard it described. This is so horrific. There is some sort of moral code in this country. To see a baby three-quarters born have scissors stuck in the back of their brain—where have we come as a country when we say, ''Well, we need a statute to prohibit that,''—this is wrong.

I do not even think we should be having debate about it. One of the problems I think many of us have who are pro-life, who are conservative is that we tend to argue facts and figures. I was ready to read you that of the two doctors who performed the majority of these abortions, half of the babies who were born were perfectly healthy. One doctor testified to that effect and nine of the flawed babies had cleft palate. Flawed babies.

We had Dr. Haskell, the other abortionist who does this, saying 80 percent of the abortions were purely elective abortions. So do not try to sell a bill of goods. Those are facts and figures.

I think what we have trouble with sometimes, as Republicans, is we put up charts, graphs, and numbers, and people just sort of glaze over. On the other side, they are much smarter. There is Senator BOXER with pictures of happy faces. There are no facts and figures.

There is no medical evidence to support that partial birth abortion is the right thing to do, this is the moral thing to do, that this is what our society should stand for. No, you put up pictures of happy, smiling faces. You pull at the heartstrings on the other side and hope that all the truth just gets pushed in the background.

There is an obvious truth here. There is an obvious truth here. You have a baby, not what they like to refer to as, ''an intact dilation and extraction.'' That is the way they describe this. An intact procedure. This intact thing is a baby, and it is three-quarters of the way delivered through the birth canal. It is not terminated, it is killed.

Whether you are for abortions or against abortions, you cannot be for doing this. It shocks the conscience of a society and should not—should not—be a procedure that is sanctioned by this body.

I yield back the remainder of my time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I yield myself 4 minutes, and I am glad the Senator from Pennsylvania is staying here because his remarks about this family are the most outrageous thing I have ever heard.

The reason this family is smiling is because Coreen Costello was pregnant with her daughter, Katherine Grace, and the dad's hand is on her stomach, and they are so excited about having this baby, their third child.

This is a woman who is pro-life who found out that Katherine Grace had a lethal neurological disorder and had been unable to move for 2 weeks.

Do you want facts? I will give you facts, sir.

The movements that Coreen had been feeling were not the healthy kicking of her baby. They were nothing more than bubbles in amniotic fluid which had puddled in her uterus rather than flowing through the baby. The baby had not been able to move for months—not her eyelids, not her tongue, nothing. The baby's chest cavity was unable to rise and fall to stretch her lungs to prepare them for air. Her lungs and her chest were left severely undeveloped, almost to the point of nonexistence. Her vital organs were atrophying.

The doctors told Coreen and her husband the baby was not going to survive, and they recommended terminating the pregnancy. She did not have an option. Her doctor told her if she did not use this procedure, which you will vote to outlaw today, she would probably not live.

So when you stand up here and you talk about happy faces and you try to demean the other side, you ought to know your facts and, sir——

Mr. SANTORUM. If the Senator from California will yield.

Mrs. BOXER. I have no time to yield on my time. I will be glad to yield on your time.

Mr. SANTORUM. Thirty seconds. You cannot have it both ways, Senator. You cannot have it both ways. You cannot have a life-of-the-mother exception, claim her life is in jeopardy and say our bill does not take care of that. If you are going to claim life-of-the-mother in her case, our bill covers that.

If you are going to claim that she had alternative procedures, like a cesarean or other kinds of procedures where she could have had an alternative, you cannot argue both sides of the story, Senator. You have to argue the facts, just one side at a time.

Mrs. BOXER. Mr. President, if I may reclaim my time.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. BOXER. Mr. President, I have read you the facts of the case. The doctor said her life might be in danger. The doctor said for sure she could suffer infertility. That is not excepted in your bill. As a matter of fact, sir, when your bill was written, there was no exception at all, and the exception that is now in your bill would not cover her particular case in any event because your exception only covers a preexisting condition. Therefore, the Boxer-Brown language is absolutely essential to cover this particular case.

I will give you more facts, I say to my friend from Pennsylvania. The American College of Obstetricians and Gynecologists represents 35,000 physicians. They opposes this bill. They think it is dangerous.

The American Nurses Association, representing 2.2 million nurses, oppose this bill. So those are just some of the facts.

Mr. President, I ask unanimous consent to add Senator MIKULSKI as a cosponsor of the Boxer-Brown amendment.

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

Mrs. BOXER. I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I rise in opposition to H.R. 1833. I oppose it because it is a direct assault upon women's reproductive rights.

But let me first thank Senator SMITH for agreeing to support the motion which the Senate adopted on November 8. This motion called on the Judiciary Committee to hold a hearing on H.R. 1833, the so-called partial-birth abortion ban.

As my colleagues know, the committee held that hearing on November 17. I believe the hearing process was very important. The issues raised by this bill are complex and sensitive. It is vital they be thoroughly explored before the Senate votes on this legislation.

I believe both proponents and opponents of H.R. 1833 found the hearing most helpful. I think all would agree Senator HATCH conducted a fair and informative hearing. We heard from medical professionals, legal and constitutional experts, and from the women themselves who courageously shared their compelling and heartrending stories.

After reviewing all of the testimony, I am more convinced than ever that Congress should not pass the bill before us. I heard nothing to change my mind, and much to reinforce my deep concerns.

Let me tell you why I oppose this bill.

First, it intrudes on the doctor/patient relationship, by criminalizing a specific medical procedure.

Second, it is poorly drafted. The bill's vague language will have a chilling effect on physicians who provide abortions.

Third, it provides no exceptions for cases involving threats to the life and health of the woman.

Fourth, most significantly, it is a direct assault on Roe versus Wade. In my view, the bill is part of a concerted effort to ban all abortions.

I oppose this bill because it is a dangerous and unwarranted intrusion on the doctor/patient relationship. It has an impact far beyond the issue of abortion. For the first time, Congress would be deciding what medical procedures a doctor can and cannot provide. This bill substitutes political reasoning for medical judgment. Congress, not medical experts, would pass judgment on a medical procedure.

H.R. 1833 makes criminals of doctors, doing their best to serve the patient's needs, who perform the procedure banned by the bill. It makes criminals of doctors even when in their expert opinion, the procedure is medically necessary to save a woman's life or prevent serious, adverse consequences to her health.

At the November 17 hearing, medical experts had very different views on what the procedure involves, on what the medical alternatives would be, and on what is best to safeguard a woman's life and health. If they cannot agree on this medical issue, how can we expect to legislate in this area? This is reason enough why Congress should not intervene in decisions on medical procedure.

I oppose this bill because it provides no true exception for the life and health needs of the woman. At the hearing, very compelling testimony was offered by women who have faced the difficult decision to have a late term abortion to save their lives or their health. These were women who eagerly awaited the birth of their child.

Then a medical emergency occurred—one that threatened their lives or posed serious consequences to their health. Congress should not tell these women, and others who face this most tragic and personal of decisions, that they cannot have the medical procedure their physician recommends to save their life, or their health, or their ability to have a child in the future. Congress should not tell them that it knows better than their doctor what medical care they should be provided.

Senator SMITH has offered an amendment to provide an exception for cases where the woman's life is at risk. I have some concerns about this amendment. I fear it may not cover all situations where the life of the woman is threatened by continuing her pregnancy. And I am concerned that, under his amendment, the burden of proof will still be placed upon the physician. However, I will support his amendment. If it will save even a few women who need a late term abortion to save their lives, I cannot oppose it.

But I believe it is absolutely essential that we pass the amendment offered by Senator BOXER. Her amendment provides clear, direct language. It will enable physicians to use their expert medical judgment to act to preserve the life of the woman or to avert serious, adverse consequences to her health.

Senator BOXER'S amendment makes it clear that when a woman must choose abortion late in pregnancy, she must have access to the safest possible procedure. And, physicians, not Senators, should make that decision.

The Boxer amendment lets doctors be doctors. It trusts them to do what is right for their patients. It ensures that women's lives and health are not put at risk. I strongly urge my colleagues to vote for this essential amendment.

I oppose this bill because it is poorly drafted. It is filled with vague, nonmedical terminology. Much of the Judiciary Committee hearing was spent debating what the bill meant. Witnesses and committee members alike could not agree on such basic questions as: How is the procedure in question actually performed? What procedure is the bill describing at all? What does partial birth mean?

If Congress passes H.R. 1833, and it is signed into law, I guarantee you will open the door to endless litigation in an effort to sort out what the bill does and does not do.

The bill's vagueness creates a further problem, whether intentionally or not is unclear. This lack of clarity would have a chilling effect on abortion providers, who are trying to make the best decision for their patients. Physicians who are trying to do their duty to protect life or health, now will have to guess whether their decision might violate Federal law.

How many doctors will continue to perform this type of late term abortion, or any abortions at all, if faced with possible criminal or civil liability. There is already a tremendous shortage of abortion providers. The bill will make this shortage even greater. And, of course, that is part of the plan—to scare doctors from the field.

Doctors who provide abortion services already face death threats, firebombings, and harassment at work and home. Now they will have to look over their shoulder in fear of arrest. Who will be willing to provide abortion services in that climate? And who will pay the price? Women will pay the price, women trying to exercise their right to a legal medical procedure.

Finally, Mr. President, I oppose this bill because it is a direct assault on Roe versus Wade. In Roe and all its subsequent rulings, the Supreme Court has consistently upheld the right of doctors to perform late term abortions to protect life or health. The Court has allowed States to ban post-viability abortions, but only when an exception for life or health is provided.

The Court has maintained that a doctor's first duty is to the woman. Her

life and health must be the doctor's paramount concern. The doctor cannot trade off her life for the life of the fetus.

So, this bill, by ignoring the Court's requirement of a life and health exception is a direct challenge to Roe. And not the last challenge. Proponents of this bill have made clear they want to ban all abortions, one procedure at a time, one woman at a time.

If they succeed in passing this bill, what procedure will they target next? Which women will next be denied their right to choose? If we allow this bill to pass, even with the amendments which I hope will be adopted, Congress will have struck a major blow against reproductive rights.

Mr. President, the basic question is not what is decided, but who decides. And the answer is, women and their doctors should decide, not politicians. Women must have the right to make their own decisions on reproductive matters, in consultation with their physicians. That is what it means to be pro-choice, and that is why I will oppose this bill.

Mrs. MURRAY. Mr. President, let me just say at the outset that I think it is incredible that we are here today debating this bill. There are unfinished appropriations bills, and an unresolved Federal budget situation that demand our full attention. I believe the American people would prefer us to address the real issues of the day—issues that affect our hard-working families—and not this kind of divisive, inflammatory legislation.

Of course, the reality is that we are here and we are considering this so-called partial-birth abortion ban, and there are a few things that I want to say regarding the bill, and also to talk briefly about the amendment offered by my friend, Senator BOXER.

Mr. President, I have listened carefully to this debate and I am increasingly convinced that it is far from being a clear and narrowly defined piece of legislation, as the proponents of the bill keep claiming it to be. I find it to be a vaguely written and dangerous attempt to ban not just a single procedure. Rather, I see it as a way to instill fear and confusion in the doctors who perform abortions, and to deter them from performing a procedure that may help save a woman whose life is in danger.

It seems clear to me this bill is about families who are faced with a terrible tragedy, and it is about the doctors who must make an expert decision based on what they believe to be in the best interest of the mother. Frankly, this bill is about Congress muscling its way into the doctor's office. It is not only presumptuous, it is unprecedented and it is dangerous. We are proposing to criminalize doctors, and I want to caution each and every one of my colleagues to stop this legislation. Like Senator BOXER has said, this is a slippery slope we do not want to start down.

But, unfortunately, it looks like there are Senators who are intent on pressing on with this bill, and so we, at least, have to try and do what our colleagues in the House failed to do—to include an exception for cases to save the life and health of the mother. Mr. President. The Senator from New Hampshire has offered an amendment which he claims provides a life of the mother exception. Well, I will vote for his amendment, because it is at least a step in the right direction.

But let's be honest. The amendment makes no room for instances where, in the medical judgment of the attending physician, the procedure would be necessary to avert serious health consequences to the woman—consequences such as severe hemorrhaging or paralysis.

Only the Boxer amendment can be considered a true life exception. Only the Boxer amendment takes the health of women into account. Only the Boxer amendment sends the right message to the families of this Nation, to the women who are faced with an unimaginable tragedy. We hear, over and over again, graphic depictions of this procedure, but what of the vivid descriptions of the pain and torment these mothers have gone through? Of the horror of losing a much wanted child? Of the fear that she will never again have a chance to have a baby?

Is there anyone here who honestly believes these women are choosing to have a late-term abortion? This insinuation is an affront to the women of this Nation. The small number of women who have late-term abortions do so because their doctors have determined it to be medically necessary to save their lives and their health. End of story.

The Boxer amendment says: We respect you and will leave this difficult decision where it belongs—between you, your doctor, and your God. We think it is important to allow families to choose the procedure that is best for them, to best protect the health of the woman and to best safeguard her chances of being able to conceive again.

Without this amendment we send the women of this country the message: ''We don't care about you, we don't respect your or your doctors. The U.S. Congress and the Federal Government know best.

Well, I don't believe Congress know best. We should leave this difficult decision to the experts and to the families who are faced with this tragedy. Congress has no place telling doctors what procedures they can and cannot perform—we have never even considered getting involved in the lives of physicians, and we shouldn't start now. Not this way.

There is too much at stake, and I appeal to the common sense and humanity of each Member of this Chamber: If you must pass this reprehensible bill, at least vote to include this critical modification, and allow for exceptions in cases where women's health and lives are at stake.

Mr. LEVIN. Mr. President, the Supreme Court has held in Roe versus Wade and reaffirmed in Planned Parenthood versus Casey, that States can ban late-term abortions except when necessary to preserve a woman's life or health. Forty-one States have established postviability bans on abortion with exceptions to preserve a woman's life or health. Only one State has banned the intact D&E abortion procedure which is the apparent subject of the bill before the Senate and that ban is being challenged in the courts.

Forty-nine States have not banned this procedure. If the bill before the Senate becomes law, the Federal Government would dictate the regulation of abortion by banning a specific abortion procedure. This Federal ban in this bill would even apply to abortions performed previability, that is, in the second trimester and the bill does not contain the exception required by Roe, to preserve a woman's health.

Some physicians believe the intact D&E abortion procedure represents the safest late-term abortion option. Others disagree. Politicians are not equipped to make decisions banning specific medical procedures when the medical community itself cannot even reach agreement on these decisions. We should not be voting to criminalize a specific medical procedure when doctors themselves are divided on the matter.

If a physician is engaged in any inappropriate medical practice, the medical establishment has systems of peer and professional review in every State to deal with it. These systems of review include State medical boards and peer review on hospital review boards that police their membership. They should be the ones to ban a procedure if they determine it to be inappropriate.

But physicians and their review processes have not banned this procedure. In fact, the American College of Obstetricians and Gynecologists, an organization representing more than 35,000 physicians that specialize in this area of medicine, oppose the bill before us. It wrote, in a letter to majority leader DOLE, that:

> The College finds very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman.

The American Medical Women's Association, Inc., representing 13,000 woman physicians, has also said of the bill:

> This legislation represents a serious impingement on the rights of physicians to determine appropriate medical management for individual patients.

In addition, the American Nurses Association, the only full-service professional organization representing the Nation's 2.2 million registered nurses through its 53 constituent associations, oppose the bill. Their letter states:

> It is the view of the American Nurses Association that this proposal would involve an

inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider.

I also received letters from physicians in Michigan familiar with this field of medicine opposing the proposed ban of the intact D&E abortion procedure. I ask unanimous consent to insert those letters in the RECORD.

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

[See exhibit 1.]

Mr. LEVIN. This bill would criminalize a so-called partial birth abortion which is defined by the bill as, ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.'' Senator HATCH referred to a statement by Dr. Haskell, a physician who has performed many intact D&E abortion procedures, that only about one-third of the fetuses he extracted using the procedure were dead.

My question is, in the one-third of the intact D&E abortion procedures he performed where the fetuses were dead, did Dr. Haskell know before beginning the procedure if those fetuses were dead? If he, and any other physicians in this situation, did not, they were taking a risk by beginning a procedure that could be a criminal act under the terms of this bill.

The Senator from New Hampshire and others have said that Coreen Costello's abortion was not a partial birth abortion, presumably because she said the ''fetus passed away peacefully in the womb.''

Did the physician know when he began the procedure whether the fetus was alive or dead? If a physician doesn't know for sure before beginning an abortion procedure whether the fetus is alive or dead, wouldn't the physician who starts down the path of performing the procedure be facing the possibility of criminal prosecution under the terms of this bill?

In addition, the physician who performed the intact D&E procedure on Mrs. Costello might not be sure when he began the procedure if the fetus would be alive or dead when extracted since there is a range of fetal response to the anesthesia administered in an intact D&E abortion, the procedure that Mrs. Costello underwent.

The performance of that procedure might then be considered an attempt at committing a crime even if the fetus turned out to be dead upon delivery. The procedure Mrs. Costello underwent thus could be covered by this bill and the physician that performed it subject to Federal criminal prosecution even if the fetus turned out to be dead when delivered.

While banning one abortion procedure, this bill leaves legal other abortion procedures which can be used in later-term pregnancies. Are those other procedures as safe for the mother? Are they any less destructive to the fetus? Why are the other procedures left legal when some have argued they are less safe for the mother, while this one procedure, which some physicians believe is the safest for the mother, is made criminal?

These other procedures that are left legal under this bill include inducing labor and delivery with drugs despite evidence of risk to the woman. A caesarean operation called a hysterotomy, which could result in severe bleeding, infection and even death for the woman, is also left legal, even in the third trimester to preserve the woman's life. Another procedure that would be left legal under this bill is called standard D&E which is performed in the second trimester and does not deliver the fetus intact, but removes the fetus from the uterus piece by piece.

In conclusion, the Supreme Court has held that States can ban late-term abortions except when necessary to protect a woman's life or health. Forty-one States have done that. But only one State has banned the intact D&E abortion procedure, and that ban is being challenged in the courts.

Forty-nine States have not acted to ban intact D&E. The medical profession's own self-regulating system has also not acted to ban intact D&E. The U.S. Senate is not equipped to make this technical medical decision.

The bill under consideration today would ban abortions using this procedure even in the second trimester and it does not allow for an exception required by Roe, to preserve a woman's health.

Finally, this bill establishes Federal criminal penalties for a specific abortion procedure which may be the safest alternative for the mother while permitting other abortion procedures that could be less safe for the mother. We should leave this issue to the medical profession and the State legislatures, where it is now and where it belongs.

EXHIBIT 1

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, November 6, 1995.

Hon. ROBERT DOLE,
Majority Leader,
Washington, DC.

DEAR MAJORITY LEADER DOLE: The American College of Obstetricians and Gynecologists (ACOG), an organization representing more than 35,000 physicians dedicated to improving women's health care, does not support HR 1833, the Partial-Birth Abortion Ban Act of 1995. The College finds very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, HR 1833 employs terminology that is not even recognized in the medical community—demonstrating why Congressional opinion should never be substituted for professional medical judgment.

Thank you for considering our views on this important matter.

Sincerely,

RALPH W. HALE, M.D.,
Executive Director.

AMERICAN MEDICAL WOMEN'S ASSOCIATION, INC.,
Alexandria, VA, November 5, 1995.

Hon. ——— ———,
U.S. Senate,
Washington, DC.

DEAR SENATOR ———: On behalf of the 13,000 women physician members of The American Medical Women's Association, I write to express AMWA's concern regarding Senate bill S. 939, ''The Partial-Birth Abortion Ban''.

It is the position of the American Medical Women's Association that this legislation represents a serious impingement on the rights of physicians to determine appropriate medical management for individual patients. AMWA recently passed resolution 15, which opposes federal legislation banning this or any other medical procedure determined to be of benefit to patients, at its annual House of Delegates Meeting.

AMWA urges the Senate to carefully consider the implications that its support of this legislation will have on the practice of medicine. We encourage the Senate to actively oppose S. 939 as legislation which unduly interferes with the physician-patient relationship.

Sincerely,

JEAN L. FOURCROY, MD, Ph.D.,
President.

———

AMERICAN NURSES ASSOCIATION,
Washington, DC, November 8, 1995.

Hon. CARL M. LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: I am writing to express the opposition of the American Nurses Association to H.R. 1833, the ''Partial-Birth Abortion Ban Act of 1995'', which is scheduled to be considered by the Senate this week. This legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider. ANA has long supported freedom of choice and equitable access of all women to basic health services, including services related to reproductive health. This legislation would impose a significant barrier to those principles.

Furthermore, very few of those late-term abortions are performed each year and they are usually necessary either to protect the life of the mother or because of severe fetal abnormalities. It is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision. This procedure can mean the difference between life and death for a woman.

The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations. ANA advances the nursing profession by fostering high standards of nursing practice, promoting the economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.

The American Nurses Association respectfully urges you to vote against H.R. 1833 when it is brought before the Senate.

Sincerely,

GERI MARULLO, MSN, RN,
Executive Director.

———

ROSEVILLE, MI, *December 7, 1995.*

Hon. CARL LEVIN,
Washington, DC.

DEAR SENATOR LEVIN: I am writing you with concerns about the S.B. 939, the D&X Abortion Procedure Ban. I am absolutely opposed to political intervention in the practice of medicine.

As a practicing OB–Gyn, I cannot begin to cite the ramifications of such a bill. If passed, it will prevent me from providing the best possible care for my patients in emergency situations. The D&X procedure is the safest option for many women faced with medical emergencies during pregnancy. It is done only in extreme situations, such as when a woman's life is in danger or when a fetus has severe abnormalities that are incompatible with life. This bill endangers the lives of women, who are already making heartwrenching decisions.

I find it very disturbing that the Senate would take any action that would overrule the judgment of trained physicians. As a physician, I and others like myself, would find it frightening that my government would prevent me from providing the best possible care for my patients. Please do not lot this happen.

Sincerely,

SAMUEL EDWIN, M.D.

DEPARTMENT OF DERMATOLOGY,
HENRY FORD HOSPITAL,
Detroit, MI, November 6, 1995.

Re Bills to limit physician abortion procedures.

Senator CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: I am very upset to hear proposed legislation to make criminal various surgical procedures performed by physicians. I realize the legislation is being introduced as a method to limit abortion. However I am incensed that non-physicians are trying to limit the scope of medical practice, and make it criminal as well!

Personally I feel it is the woman's right to choose, and as men, we should not interfere. But as a physician it is a slippery slope for non-physicians to limit our practices especially for political means.

Please block this legislation!

Sincerely,

TOR SHWAYDER, M.D.,
Director, Pediatric Dermatology; Fellow, American Academies of Pediatrics & Dermatology.

Mr. FEINGOLD. Mr. President, I rise in opposition to H.R. 1833.

I do so because this legislation raises serious policy, legal and medical issues.

H.R. 1833 seeks to impose criminal sanctions upon physicians who perform certain types of late term abortions.

It is important, Mr. President, to understand that very few late term abortions take place in this country, under any circumstances. It is estimated that there are approximately 600 abortions annually performed in the third trimester of pregnancy, with about 450 done by what is called an intact D&E procedure. The procedure which would be banned under this legislation is a form of an intact D&E procedure. Late-term abortions take place under the most tragic of circumstances, where something has gone wrong with the pregnancy. Late-term abortions are physically difficult and emotionally devastating to the women involved and their families. Several women who were forced to have such an abortion testified at the Senate Judiciary Committee hearing about the pain and anguish they and their families had experienced.

This bill would place the Federal Government into the role of deciding what procedures a physician can or cannot use in performing a late-term abortion. It would substitute the judgment of Congress for the judgment of the individual physician performing an abortion.

I believe that such legislation is bad policy. The American people have repeatedly said that they want less government interference in their lives. This bill moves in exactly the wrong direction.

Since the beginning of the 104th Congress, there has been a great deal of rhetoric about how we need to restrain the Federal Government, about how the Federal Government has usurped the powers of State and local government entities, and about how the Federal Government has intervened in areas beyond its primary realm of responsibility. We have heard repeatedly that we need fewer Federal mandates and fewer Federal regulations.

Mr. President, let me say that I agree with a good deal of those sentiments. I believe that the Federal Government has gone too far in many areas. That is one reason why I voted against last year's Federal crime bill and this year's terrorism bill. In each instance, I saw examples of the Federal Government overzealously reaching into areas of law which have traditionally been within the jurisdiction of State and local law enforcement agencies.

I voted for the unfunded mandate legislation because I agree that the Federal Government needs to exercise restraint in forcing the States to comply with Federal mandates. I support many aspects of the regulatory reform drive because we do need greater flexibility and less Federal micromanagement in many areas.

But now, Mr. President, we are presented with legislation that places the Federal Government in the role of deciding what specific procedures a physician should use or not use when faced with a problem pregnancy and a woman's desire to terminate that pregnancy.

Mr. President, there are many reasons why this is a dangerous area for Federal Government intervention. One of the physicians said it well during the Judiciary Committee hearing on November 17. Dr. J. Courtland Robinson testified:

> Sometimes, as any doctor will tell you, you begin a surgical procedure expecting it to go one way, only to discover that the unique demands of the case require that you do something different. Telling a physician that it is illegal for him or her to adapt his or her surgical methods for the safety of the patient . . . flies in the face of standards for quality medical care.

Dr. Robinson also pointed out in his testimony that many physicians would not undertake a surgery at all if they were legally prohibited from completing it in the safest, most effective way, according to their professional judgment.

Mr. President, I want to reiterate that the measure under consideration would insert the Federal Government into one of the most intensely private and personal areas. This bill would have Congress override the decisions made by a woman and her physician in an area that literally involves life or death.

It is ironic that many of the same individuals who strongly challenged the ability of the Federal Government to handle comprehensive health care reform are among the foremost proponents of this effort to insert the Federal Government into a physician's decisions in the operating room.

For example, during last year's health care debate, the distinguished Senator from North Carolina (Mr. HELMS) asked:

> Do you want the Federal Government, the Government that operates your postal system to decide whether you should have an operation or not? With this kind of government intervention, what is left for the doctor and the patient to decide?

Yet, that is precisely the kind of intervention that is being proposed by this legislation. This measure says that a physician who determines that a specific procedure is necessary to protect the life or health of his or her patient may face a Federal criminal prosecution for exercising his professional judgment.

Mr. President, it is also important to note that the language of this bill is so vague that a number of physicians have indicated that they would simply stop performing late-term abortions rather than run the risk of criminal prosecution or endangering the life or health of their patient. Dr. Robinson told the committee:

> For many physicians, this law would amount to a ban on a D&E [procedure] entirely the law is so vague and based on erroneous assumptions, it would leave doctors wondering if they were open to prosecution or not each time they performed a late abortion. That means that by banning this technique, you would in practice ban most later abortions altogether by making them virtually unavailable. And that means that women will probably die.

Dr. Robinson, incidently, is a former Presbyterian missionary who has practiced medicine for more than 40 years. He described for the committee his exposure to the consequences of illegal abortions prior to the Roe decision. He testified that over a period of five years on the staff of a hospital in New York, he watched women die from abortions that were improperly performed. His concerns about the consequences of legislation that would make certain types of abortions illegal and deny women access to the safest abortion procedure for their individual circumstances were clearly an outgrowth of his familiarity with what happens when Government treads too

far into what should be a decision made by a woman and her physician.

Mr. President, that brings me to a second policy concern regarding this legislation. On its face, H.R. 1833 seeks to criminalize the performance of a particular type of abortion. Yet, Mr. President, there is little doubt that the purpose behind this legislation is to begin the process of curtailing and ultimately denying all access to legal abortion.

When pressed, many of the proponents of H.R. 1833 will admit the truth of this assertion.

One of the major House proponents, Congressman CHRIS SMITH (R. N.J.) stated in a November 9, 1995, USA Today article, '' We will begin to focus on the methods [of abortion] and declare them to be illegal.''

At the Judiciary Committee hearing on this measure, I asked one of the proponents, Helen Alvare, Director of Planning and Information, Secretariat for Pro-Life Activities of the National Conference of Catholic Bishops, whether all methods of abortion should be criminalized. The response I received was very clear. Ms. Alvare stated her view that ''every single kind of procedure that takes an unborn life'' should be outlawed.

Mr. President, I specifically asked whether that included nonsurgical forms of abortion, such as the use of a drug like RU–486 which leads to the termination of a pregnancy in the very early stages, the first few weeks. The answer was yes, and Ms. Alvare was very clear that she found the use of an abortifacient drug at the earliest stages of a pregnancy to be as objectionable as the procedure under discussion.

Mr. President, I think the record should also note that in the past there have been efforts to ban other methods of abortion which the proponents of this legislation now point to as remaining available should this ban be enacted into law. For example, in 1976, in Planned Parenthood versus Danforth, the Supreme Court struck down a Missouri statute which would have prohibited saline abortion procedures after the first 12 weeks of pregnancy.

It is clear that this legislation is part of a calculated plan to make abortion more difficult for women and their physicians. It is part of a calculated plan to limit and erode a woman's ability to exercise her constitutionally protected rights. We cannot lose sight of the fact that Dr. Robinson's memories of a time when abortion was illegal and women died from illegal abortions might become a reality again if these efforts are successful.

Mr. President, I want to focus now upon an important aspect of the Judiciary Committee hearings dealing with why this particular procedure might, in the judgment of a woman's attending physician, be the most appropriate in light of her individual circumstances.

Mr. President, throughout this debate, different physicians who testified at the Judiciary Committee hearing will be quoted as to their view regarding whether the procedure under discussion is more or less safe for a woman than other procedures, whether the procedure may be necessary in a particular situation to protect a woman's future ability to bear children, and precisely what the procedure is that would be banned under this legislation.

What occurred at the hearing, Mr. President, was a professional disagreement among members of the medical community on the efficacy and risks associated with various abortion procedures. That members of the medical community have different opinions on these issues is both understandable and expected.

It is also precisely the reason why trained physicians and their patients, not members of the Congress, should make the decisions about what course of treatment is appropriate in individual situations.

The ability to choose between alternative courses of medical treatment and the ability to choose between physicians who favor one procedure over another is something that we often take for granted.

Physicians who themselves do not choose to perform the type of procedure at issue have also made it clear that they do not believe Congress should be legislating in this area. In particular, Dr. Warren M. Hern of Boulder, Colorado, a physician who performs late-term abortions has been quoted by proponents of H.R. 1833 as having reservations about this particular procedure. However, in his testimony submitted to the Senate Judiciary Committee on November 17, 1995, he outlined the possible advantages of using the intact D&E procedure, including a reduction of the risk of perforation of the uterus and reducing the risk of embolism of cerebral tissue into the woman's blood stream. He concluded by stating:

> While I may choose a different method of performing a late abortion, I support the right of my medical colleagues to use whatever methods they deem appropriate to protect the woman's safety during this difficult procedure. It is simply not possible for others to second guess the surgeon's judgment in the operating room. That would be dangerous and unacceptable.

Mr. President, I am not sure that it is appropriate for Members of Congress to even try to resolve a matter that is the subject of debate between physicians as to whether there are situations where this procedure is preferable to another procedure. It is clear from the testimony at the Judiciary hearing that there are respectable differences of opinion in this area.

For example, Dr. Mary Campbell, medical director of Planned Parenthood of Washington, DC, testified there were a number of situations where alternative abortion procedures such as induction or cesarean section are considered less safe than an intact D&E procedure. For example, Dr. Campbell testified that ''a woman is twice as likely to die'' with an induction procedure, an alternative abortion procedure in a late-term pregnancy. She further testified that a cesarean section was another option, but that a woman was 14 times as likely to die with a Cesarean hysterotomy as with a D&E procedure.

Dr. Campbell outlined her views as to why the intact D&E procedure was preferable in certain cases. According to Dr. Campbell, the procedure requires less dilation of the cervix and thus markedly decreases the chances of cervical lacerations and cervical incompetence which can adversely affect future pregnancies. She also testified that the uterine scar, especially from the kind of vertical incision most often used in cesarean sections involving abnormal preterm fetuses, creates an increased risk of uterine rupture in future pregnancies.

Dr. Robinson testified with the same concerns about the risks posed by alternative procedures. In response to my question, Dr. Robinson testified that a vertical scar in the uterus resulting from such a cesarean was definitely an increased hazard when a woman has a subsequent pregnancy.

Included in the hearing record are letters from Dr. Elaine Carlson of Cedars-Sinai Medical Center in Los Angeles indicating that alternative procedures can cause a traumatic stretching of the cervix that then increases a woman's changes for infertility in the future and from Dr. George Henry of Denver, CO, indicating similar concerns. Dr. Henry, in a subsequent letter to me elaborated on the risks to both a woman's life and her future ability to bear children from a cesarean section type of surgical approach. ''Such a surgery,'' Dr. Henry wrote, ''exposes the patient herself to much greater medical risk immediately and also increases the need for repeat C- sections in future pregnancies as well as the risk of uterine rupture in future pregnancies because of the uterine scar—and even the potential loss of the uterus if emergency hysterectomy is required.''

Other witnesses, proponents of this legislation, disagreed and stated their view that the intact D&E procedure was more risky than the other procedures, and that there were no circumstances where they would consider this procedure necessary to protect the life or health of the woman.

Mr. President, what this debate told me is that there is room for disagreement between physicians about specific medical procedures; it is not for Congress to determine which side of this debate is right or wrong. These are medical questions which ought to be decided by medical professionals, not Members of Congress. Congress ought not to tie the hands of a physician trying to make the best decision for his or her patient. As Dr. Robinson testified, ''The physician needs to be able to decide, in consultation with the patient and based upon her specific physical

and emotional needs, what is the appropriate method. The practice of medicine by committee or legislature is not good for patients or for medicine in general.''

Mr. President, the reasons why Congress ought to stay out of this decisionmaking process was also eloquently made by several women who had made the difficult choice of choosing this procedure when a much wanted pregnancy has turned into a tragedy.

Coreen Costello testified:

It deeply saddens me that you are making a decision having never walked in our shoes. When families like ours are given this kind of tragic news, the last people we want to seek advise from are politicians. We talk to our doctors, lots of doctors. We talk to our families and other loved ones, and we ponder long and hard into the night with God.

Mr. President, we ought to heed those words. These decisions are private, personal decisions to be made by the families involved, guided by their physicians. The Federal Government ought to leave these decisions with the people involved.

Finally, Mr. President, let me briefly address the Constitutional issues raised by this legislation.

H.R. 1833, in my view, is fatally flawed because it fails to adequately provide protections for procedures necessary to preserve or protect a woman's life or health. Roe vs. Wade, and the cases that have followed including Casey, have made it clear that States have the authority to restrict and even ban abortions after fetal viability except where necessary to protect a woman's life or health. H.R. 1833 as originally proposed included an utterly inadequate provision allowing only an affirmative defense to be asserted by the physician that the procedure was necessary to protect a woman's life. In other words, a physician who performs this procedure in order to save a woman's life could be hauled into a Federal court and prosecuted for violating this statute. The physician would only be able to raise as a defense that the procedure was performed to save a woman's life. It is only after extensive debate that the proponents of H.R. 1833 proposed to change their language to provide an explicit exception from the statute's coverage for a procedure necessary to preserve a woman's life. However, the amendment they have offered contains limitations upon the life of the mother exception which also raise questions as to whether it comports with the standard set forth in Roe v. Wade.

Moreover, the proponents have failed to even acknowledge the requirement that an exception be provided where the procedure is necessary to protect a woman's health, including her future ability to bear children. The proponents argue that such an exception is unnecessary because alternative procedures are available. Those arguments fail to acknowledge the medical disagreement over whether such alternative procedures pose greater risks to the woman's health. The proponents of this legislation seem to take the view that even if an alternative procedure would result in a woman being unable to bear a child in the future, that is an adequate alternative.

Mr. President, I find this to be a particularly harsh judgement to be imposed upon families who have experienced the tragic end to a much-sought pregnancy. To tell a woman and her family that Congress will not allow her doctor to use a procedure which will allow her a greater chance to be able to have another pregnancy and bear a child in the future is cruel and unconscionable.

Mr. President, let me conclude by reiterating again that this legislation would insert the Federal Government into one of the most private, personal decisions a woman and her family and her physician must face. The American people have said time and again they want less Government intrusion into their lives, not more. This bill is in every way an inappropriate extension of power by the Federal Government into the lives of individual Americans at a very traumatic and emotion point. It ought to be rejected.

Mr. PELL. Mr. President. A month ago, the Senate chose to refer to the Senate Judiciary Committee a bill which would ban from use a medical procedure currently used to terminate late-term pregnancies. I supported that referral because it was unclear what all of the ramifications of such a ban were and the Senate deserved the opportunity to have a complete record upon which to make an informed decision regarding this complex and controversial issue.

Today, we have that record before us. I thank the members of the committee for their thorough and detailed work in exploring this difficult matter and based on that record, I have come to the conclusion that I will oppose this legislation.

I do so because I believe that the bill goes too far in its virtual ban of the use of this procedure, despite the fact that in many cases medical professionals believe that it is the safest means to terminate troubled and tragic late-term pregnancies. I believe that medical doctors, following the constitutional guidelines under which abortion is legal and following consultation with a woman and her family, should be able to choose the medical procedure he or she deems most appropriate to terminate a pregnancy without facing criminal or civil penalties. Indeed, criminalizing a medical procedure in the manner proposed in the bill would be the first such time we have done so in our country's history.

I do not come to this position lightly. I, and I believe virtually all Americans, am disturbed with the harsh realities that this issue forces our human conscience to acknowledge. In the end, however, I believe that it is not the place of Congress to interject itself in this manner into the tragic personal decisions that women and families must face. I do believe it should be a rarely used procedure and in that regard have been informed that there is no recollection of it being used in my State of Rhode Island. Indeed, there are only a handful of practices throughout the country that utilize it and the total number of cases amount to less than one-tenth of 1 percent of total abortions. I also believe that the heightened scrutiny that this procedure has received will reduce those occasions when it is used inappropriately. In the end, however, I believe that it should remain an option available to doctors when they deem it medically necessary in order to terminate a pregnancy.

By way of conclusion, I ask unanimous consent to have printed in the RECORD an article from the New York Times written by a woman who went through this procedure. I believe it eloquently makes the case that it would be wrong to enact the outright ban contained in this bill for this procedure and, accordingly, that this option should remain available to women and families of this country.

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

[From the New York Times, November 29, 1995]

GIVING UP MY BABY

(By Coreen Costello)

Those who want Congress to ban a controversial late-term abortion technique might think I would be an ally. I was raised in a conservative, religious family. My parents are Rush Limbaugh fans. I'm a Republican who always believed that abortion was wrong.

Then I had one.

It wasn't supposed to be that way. My little girl, Katherine Grace, was supposed to have been born in the summer. The births of my two other children had been easy, and my husband and I planned a home delivery.

But disaster struck in my seventh month. Ultrasound testing showed that something was terribly wrong with my baby. Because of a lethal neuromuscular disease, her body had stiffened up inside my uterus. She hadn't been able to move any part of her tiny self for at least two months. Her lungs had been unable to stretch to prepare them for air.

Our doctors told us that Katherine Grace could not survive, and that her condition made giving birth dangerous for me—possibly even life-threatening. Because she could not absorb amniotic fluid, it had gathered in my uterus to such dangerous levels that I weighed as much as if I were at full term.

I carried my daughter for two more agonizing weeks. If I couldn't save her life, how could I spare her pain? How could I make her passing peaceful and dignified? At first I wanted the doctors to induce labor, but they told me that Katherine was wedged so tightly in my pelvis that there was a good chance my uterus would rupture. We talked about a Caesarean section. But they said that this, too, would have been too dangerous for me.

Finally we confronted the painful reality: our only real option was to terminate the pregnancy. Geneticists at Cedars-Sinai Medical Center in Los Angeles referred us to a doctor who specialized in cases like ours. He knew how much pain we were going through, and said he would help us end Katherine's

pain in the way that would be safest for me and allow me to have more children.

That's just what happened. For two days, my cervix was dilated until the doctor could bring Katherine out without injuring me. Her heart was barely beating. As I was placed under anesthesia, it stopped. She simply went to sleep and did not wake up. The doctor then used a needle to remove fluid from the baby's head so she could fit through the cervix.

When it was over, they brought Katherine in to us. She was wrapped in a blanket. My husband and I held her and sobbed. She was absolutely beautiful. Giving her back was the hardest thing I've ever done.

After Katherine, I didn't think I would have more children. I couldn't imaging living with the worry for nine months, imagining all the things that could go wrong. But my doctor changed that. ''You're a great mother,'' he told me. ''If you want more kids, you should have them.'' I'm pregnant again, due in June.

I still have mixed feelings about abortion. But I have no mixed feelings about the bill, already passed by the House and being considered in the Senate, that would ban the surgical procedure I had, called intact dilation and evacuation. As I watched the Senate debate on C-Span this month, I was sick at heart. Senator after senator talked about the procedure I underwent as if they had seen one, and senator after senator got it wrong. Katherine was not cavalierly pulled halfway out and stabbed with scissors, as some senators described the process.

I had one of the safest, gentlest, most compassionate ways of ending a pregnancy that had no hope. I will probably never have to go through such an ordeal again. But other women, other families, will receive devastating news and have to make decisions like mine. Congress has no place in our tragedies.

Mr. SMITH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from New Hampshire has 12 minutes and 15 seconds remaining.

Mr. SMITH. Mr. President, I hope my colleagues are listening carefully at this stage of the debate, because we are down now to where we are about to vote on two very important amendments related to this bill.

Senator BOXER has taken the time to go through two very compelling cases, very tragic cases. Both of those women testified before the Judiciary Committee, and that was heart-rending testimony.

I viewed the testimony. I have read it. There is only one problem, and I have said it, Senator DEWINE has said it and others have said it: These women did not have partial-birth abortions. I will repeat, these women did not have partial-birth abortions. Coreen Costello and Viki Wilson did not have partial-birth abortions. Senator BOXER knows that, and both of the young women know that. A partial-birth abortion specifically is killing a child who is 90 percent born through the birth canal by the use of the catheter and the scissors.

Now, let me read from the testimony of Coreen Costello:

When I was put under anesthesia, Katherine's heart stopped. She was able to pass away peacefully inside my womb, which was the most comfortable place for her to be. When I awoke a few hours later, she was brought to us. She was beautiful. She was not missing any part of her brain. She had not been stabbed in the head with scissors. She looked peaceful.

Mr. President, that is my point.

Mr. SANTORUM. If the Senator will yield, that picture is not factual, right? That picture is not factual, is it?

Mr. SMITH. The Senator is correct.

Mrs. BOXER. Will the Senator yield to me on my own time?

Mr. SMITH. Yes.

Mrs. BOXER. I will place in the RECORD a letter from these women, and I will read it later, which completely makes the statement that this particular procedure that they underwent is, in fact, the procedure that would be outlawed. And, in fact, the doctor that was vilified in this debate—by name, Dr. McMahon—and was summoned before the House committee is the doctor that performed the intact dilation and evacuation procedure. These women are completely upset, and here is a quote from the first sentence:

We are shocked and outraged—

This is to Senator SMITH.

—at attempts by you and other Members of the Senate to dismiss our significance as witnesses against the partial-birth abortion ban.

I have to tell you Senators, you can fight this and you may well have the votes. But do not demean these women. I have to say, Viki Wilson, who you said yesterday did not have this procedure, had Dr. McMahon as a doctor. She is a registered nurse. Her husband is a physician in an emergency room. They both know this bill. They say what Viki underwent is exactly what is described in the bill.

So if we are going to have an argument every time I bring out another family, and you are going to say they are excepted, are we going to write legislation like that?

I reserve the remainder of my time.

Mr. SMITH. Reclaiming my time, Mr. President, when you look out the window and it is raining, and the person sitting next to you says it is not raining—I mean, you can argue this, but facts are facts. I am not demeaning the testimony of Viki Wilson or Coreen Costello. They were very, very moving stories. This Senator was very moved by those stories. But they are not partial-birth abortions.

This Senator's bill, and all the amendments we are talking about on the bill, does not stop the procedure that Viki Wilson and Coreen Costello had.

I will now repeat and read verbatim from the testimony of Viki Wilson. Please listen carefully and make your own judgment.

Viki Wilson said:

My daughter died with dignity inside my womb. She was not stabbed in the back of the head with scissors. No one dragged her out half alive and killed her. We would never have allowed that.

Mr. SANTORUM. If the Senator will yield. So the second picture the Senator from California has up there is also not factual, is that true?

Mr. SMITH. It is a fact that that is the family, but it is not a fact that they had a partial-birth abortion.

Mr. SANTORUM. So we are going to continue to throw pictures up, and that is how we are going to deal with facts.

Mr. SMITH. Yes. This bill is very clear and specific, and it outlines this procedure in the birth canal. That is all this allows. I say that in sincerity to the Senator because I know he feels very strongly. I must say to him, that is the fact.

Why Senators would come down here and testify to things that are not accurate, you will have to ask them. Listen, here is the exact language of my bill:

The term partial-birth abortion means an abortion in which the person performing the abortion partially, vaginally delivers a living fetus before killing the fetus and completing the delivery.

When I read the testimony of the two women, both of them said their child died in their womb peacefully. Now, dying in womb peacefully—does that say ''an abortion in which the person performing the abortion partially, vaginally delivers a living fetus before killing the fetus and completing the delivery''? That is what this bill stops. That is all it stops. That is all it says. That is exactly what it says.

I say to my colleagues, no matter how you feel on the issue, please, at least accept facts as being facts. This is the floor of the U.S. Senate. We have an obligation to tell the truth. That is not the truth, what Senator BOXER is saying. Whether it is meant to be or thought to be is another issue. But it is not fact. I know what my bill says. That is what it says. I just read it to you.

How much time is remaining?

The PRESIDING OFFICER. Six minutes thirty seconds.

Mr. SMITH. I yield 2 minutes to myself and ask to be notified when the 2 minutes are up.

Let me just say that this Dole-Smith amendment provides a life-of-the-mother exception. We had an affirmative defense in the bill. Members came to me and said, ''We want it a little more clarified.'' I said, ''Fine,'' and we clarified it because I think Senators sincerely had a concern about that—even though there have been no witnesses to testify that the mother's life was ever a problem. Let me just say that this applies to any situation in which a pregnant woman's life is physically threatened by any pregnancy, complication, or other disorder, and a partial-birth abortion is the only means by which her life can be saved. That is the life-of-the-mother exception. It is very clear. There is no question about it.

If we go to the Boxer partial-birth abortion on demand amendment, it allows partial-birth abortions on demand throughout the full 9 months of the pregnancy. If a woman has any health

problem that she so indicates, then any child could be aborted for any reason. That is a fact.

We voted on this before on the floor of the Senate, and we voted it down. I hope that we will vote it down now and have a true life-of-the-mother exception, as we have tried to do.

I remember in the debate when the Senator from California, and others, made a big case here on the floor to please have the life-of-the-mother exception, have it clarified. We have done that. In fact, I voted to send the bill back to committee to have time to do that and to hear the testimony of the witnesses.

I will conclude on this point, Mr. President. We had no doctors who performed partial-birth abortions testifying and no women who had them testifying. So I am not sure what the committee hearing produced.

Thank you, Mr. President.

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

The PRESIDING OFFICER. Seven minutes, 30 seconds.

Mrs. BOXER. I ask that I be notified when I have used 3 minutes.

Mr. President, I will tell you, this debate is one of the most fascinating I have ever been in. I will hold up picture after picture of people who know that this bill applies to the procedure they had, and my colleague, who thinks he might perhaps be a doctor, and his friends think that, in fact, they do not know what they are doing because they are U.S. Senators. After all, they know more than the families that went through this what happened. Again, here is the letter I read part of, dated December 7—and that is today. This was raised yesterday as a red herring, that these people that I held up did not know what they were talking about.

These women and families wrote us. Seven of them said this, and I will quote—this is to Senator SMITH:

We are shocked and outraged by attempts by you to dismiss our significance as witnesses against the partial-birth abortion bill.

Then they say:

Your rhetoric vilifies our physician, Dr. McMahon, who is the Nation's leading developer and practitioner of this technique for third-trimester abortions, and you claim simultaneously that we did not undergo the procedure in question. But we definitely had intact dilation and evacuation procedures, and it is definite that no doctor who wants to stay out of prison will perform that procedure, or any surgery that remotely resembles it, if your bill is passed.

They write this:

If your bill passes, families with tragedies like ours will have added misery and pain because the surgical procedure that helped us will be unavailable. Please stop pushing this awful bill and please stop pretending that we are irrelevant.

Of course, Senators will continue to say that these people, religious families, loving families, simply do not know what they are talking about and do not know what was done to the body of their incredibly important family member.

Now, this is Viki Wilson. She testified to the Judiciary Committee as follows. These are facts, facts from her mouth.

I am a practicing Catholic and I couldn't help but believe that God had some reason for giving us such a burden, and then I found out about this legislation. I knew then and there that Abigail's life had special meaning.

I think God knew I would be strong enough to come here and tell you my story, to try to stop this legislation from passing and causing incredible devastation for other families like ours, because there will be other families in our situation, because prenatal testing is not infallible and I urge you please do not take away the safest method known.

The PRESIDING OFFICER. There are 4 minutes 30 seconds remaining.

Mrs. BOXER. I will take an additional 30 seconds, and I will retain the time for my colleague from New Jersey.

Coreen Costello says, ''I hope you can put aside your political differences, your positions on abortion, your party affiliation''—this is a picture of Coreen—''and just try to remember us. We are the ones who know. We are the families that ache to hold our babies, to love them, to nurture them. We are the families who will forever have a hole in our hearts.''

I say to any Senator that tries to demean these families and tell them they do not know what went on in these families should think again. We were elected to be Senators, not doctors, and not God.

I retain the remainder of my time.

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

The PRESIDING OFFICER. Four minutes twenty-two seconds.

Mr. SMITH. I yield myself 3 minutes 22 seconds.

Mr. President, it is very frustrating. Again, I will just repeat for emphasis for those, I hope, who are listening to the debate: Viki Wilson in her testimony not only indicated that she did not have a partial-birth abortion, she said she would not have one. So these are not partial-birth abortions. But again I will not continue to debate it.

Any reasonable person, hopefully, who is watching the debate would understand the definition is very clear. A partial-birth abortion is when a child is killed in the birth canal. These two women in the horrible circumstances they went through lost their children in the womb. This amendment would not prevent what happened to them.

Since I have been accused of not being a doctor, which is a fair accusation, let me offer into the RECORD a sample of the 200 unsolicited letters from ob-gyn's from all over America. I ask unanimous consent that all of these be printed in the RECORD after this debate.

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

(See exhibit No. 1.)

Mr. SMITH. I will quote from a letter from a Dr. Dorothy Czarnecki, an ob-gyn from Philadelphia. She says:

DEAR SENATOR SMITH: I appreciate your efforts on behalf of the ''partial-birth abortion'' controversy. In no way are these done only on abnormal infants. This is just another brutal way to destroy life. This procedure is not necessary to protect the life or health of women in this country.

Another one from Dr. Lauri Scott, M.D., assistant professor of maternal-fetal medicine in Dallas, TX.

I am a specialist in maternal-fetal medicine and on faculty in the Department of Obstetrics and Gynecology at the University of Texas, Southwestern Medical Center. It is the nature of my specialty that I deal with high-risk pregnancies and would be the consultant called to deal with issues regarding the ''life-of-the-mother.''

I can tell you unequivocally there is no maternal medical reason for ''late-term abortions.'' In situations where the life of the mother is at stake, we simply deliver the infants and the baby takes its chances in the nursery.

''DEAR SENATOR SMITH,'' Mary Davenport, Oakland, CA:

I am writing to you in support of the partial-birth abortion bill. There is no medical indication for this procedure, and the performance of this operation is totally in opposition to 2,000 years of Hippocratic medical ethics. Please do your best to eliminate this procedure. It is not done in any other nation of the world.

Margaret Nordell, M.D., caring for women of all ages, Minot, ND:

I am a member of the DakotaCare Physicians Association. I believe that this procedure is unnecessary to protect either the life or health of women in this country.

Dr. Karin Shinn, Coney Island Hospital:

DEAR SENATOR SMITH: I am a practicing obgyn on the staff of Coney Island Hospital. It is my professional opinion that the partial-birth abortion procedure is very dangerous and absolutely unnecessary to protect either the life or the health of the women in America.

Letter after letter after letter, Mr. President, all over the country. To say that somehow the U.S. Senator who stands here on the floor, quoting from doctors about a medical procedure, to taking the ''slam'' that somehow we cannot vote for something or talk about something because we are not doctors—we send troops into Bosnia, that will happen. And I assure you that every Senator who votes to send them there has never served in combat and probably never been there. That is for sure. We vote on Medicare and we vote on Medicaid and not everybody here is a senior citizen.

The argument is absolutely ludicrous and frankly insulting. I hope my colleagues will defeat the Boxer amendment and support the Smith-Dole amendment.

EXHIBIT 1

PHILADELPHIA, PA,
November 28, 1995.

Hon. ROBERT SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: I appreciate your efforts on behalf of the ''partial birth abortion'' controversy. In no way are these done only on abnormal infants. This is just another brutal way to destroy life. This procedure is not necessary to protect the life or health of women in this country.

Thank you again and keep up the fight to protect our children.

Sincerely,

DOROTHY CZARNECKI, M.D.

DALLAS, TX,
November 7, 1995.

Re late term abortions.

Hon. ROBERT SMITH,
U.S. Senator, Washington, DC.

DEAR SENATOR SMITH: I am a specialist in Maternal-Fetal Medicine and on faculty in the Department of Obstetrics and Gynecology at the University of Texas Southwestern Medical Center. It is the nature of my specialty that I deal with high risk pregnancies, and thus would be the consultant called to deal with issues regarding ''the life of the mother''. Prenatal diagnosis is also part of my specialty, and I am the one who breaks the news of fetal abnormalities and helps to plan how best to manage the rest of the pregnancy.

I can tell you unequivocally that there is no maternal medical indication for ''late term abortions.'' In situations where the life of the mother is at stake, we simply deliver the infant and the baby takes its chances in the nursery. In our nursery, 50% of the infants born at 24 weeks gestation will survive, most without significant problems. Prior to 24 weeks we recognize that the baby will generally die due to extreme prematurity, but we perform no procedures to ensure its death; there is no medical reason for this when the concern is with the life of the mother. ''Late term abortions'' are no safer, and may be more dangerous for the mother, than simple induction of labor.

The only reason for a ''late term abortion'' is to ensure that the late second trimester and third trimester fetus is born dead. The only possible medical indication would be a situation in which the fetus has abnormalities incompatible life. However, in most of these situations, the infant would die shortly after birth anyway and terminating the pregnancy in the late 2nd or 3rd trimester carries the same complications as allowing the pregnancy to go to term and end naturally.

This procedure has no place in modern obstetrics and only serves to destroy lives that might otherwise survive. I suspect that the women who made such tragic decisions for medical reasons chose this procedure without truly informed consent or full knowledge of their options. It should never be performed as an elective procedure. Please support legislation banning this procedure.

Sincerely,

L. LAURIE SCOTT, M.D.,
Assistant Professor,
Maternal-Fetal Medicine.

OAKLAND, CA,
December 1, 1995.

DEAR SENATOR SMITH: I am writing to you in support of the partial birth abortion bill. There is NO medical indication for this procedure, and the performance of this operation is totally in opposition to 2000 years of Hippocratic medical ethics. Please do your best to eliminate this procedure. It is not done in any other nation of the world.

Sincerely yours,

MARY L. DAVENPORT, M.D.

MINOT, ND,
November 28, 1995.

Senator ROBERT SMITH,
U.S. Senate,
Washington, DC.

DEAR MR. SMITH: I, Margaret Nordell, a medical doctor of obstetrics and gynecology am supporting Senator Robert Smith in the ban against ''partial birth abortion''. I am a member of the DakotaCare Physicians Association. I believe that this procedure is unnecessary to protect either the life or the health of women in this country.

Sincerely,

MARGARET NORDELL, M.D.

CONEY ISLAND HOSPITAL,
DEPARTMENT OF OBGYN,
Brooklyn, NY, November 26, 1995.

Hon. ROBERT SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: I am a practicing OBGYN on the staff of Coney Island Hospital in Brooklyn, New York. It is my professional opinion that the partial birth abortion procedure is very dangerous and absolutely unnecessary to protect either the life or the health of women in America. Therefore, I whole heartedly support the partial birth abortion ban bill to be passed and become officially law. Thank you.

Sincerely,

KARIN E. SHINN, D.O.,
Assistant attending.

The PRESIDING OFFICER. The Senator from California has 3 minutes 52 seconds.

Mrs. BOXER. I yield 2 minutes to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, first, let me commend my colleague from California for speaking so forthrightly about an issue that does not belong in the kind of debate that we have heard from the other side from the proponents of this amendment.

Strangely enough, and I speak now as a father and a grandfather, as a father of four. We lost a couple because of health problems with my wife, and every one of those pregnancies that was lost was a terrible experience for us.

When my youngest daughter lost a fetus, lost a pregnancy that was in its 7th month because the baby was entangled in the cord, it was very painful, very painful. We did not know whether we had a healthy baby or not, but we were torn by this experience, to have her go to the hospital, spend 8 hours in labor to deliver the fetus.

The interesting thing to me, Mr. President, is I have not heard one woman speak for that side. It is the men who speak on what women ought to do, tell them how to conduct their lives, tell them what to do with their bodies, describe the pain that they will never feel. It is quite interesting. They want to tell everybody what the moral right is.

I just heard one of our Senators say something that to me is so preposterous. He says those who will vote to send troops to Bosnia will never serve in combat. Who is he that knows all this information? What a silly thing to say. It is the same thing we are talking about here.

What this is is license for the Government to participate in the operating room when a doctor does a procedure, when a doctor decides to perform a procedure that the woman carrying the fetus wants to have done because she feels that it is essential or the doctor feels it is essential for her health.

These abortions, these procedures are rarely done when someone was making that choice simply to rid themselves of that pregnancy.

This is a sad day, I think, Mr. President.

Mr. President, the bill before us is extremely dangerous and I strongly oppose it.

This bill is poorly titled for many reasons. It would more appropriately be called The Big Government Intrusion into the Doctor-Patient Relationship Act.

Under this bill, we will literally have FBI agents snooping around examining rooms. Let me repeat this. This legislation authorizes the FBI to go wandering around doctors' offices looking at patients and what doctors are doing to them.

Furthermore, this bill does not include a life and health of the mother exemption.

This bill will send a chilling signal to doctors in this country. And they will leave the practice of reproductive health care in droves.

And women could die in waiting rooms while doctors are on the phone, consulting with defense and constitutional lawyers, about what they can or cannot do to treat their patients.

Mr. President, one reason I am opposing this bill is because I believe doctors and patients can make proper decisions about which health care treatment is most appropriate.

Mr. President, one of the most extreme elements of this bill is its failure to include an exception to deal with situations in which the life or health of the mother is at risk. The pending Boxer amendment seeks to make this bill a little less extreme. The Boxer amendment would create a real health and life-of-the-mother exception.

Under the bill, as originally presented, if a doctor thought it likely that a woman would become permanently disabled if she carried a fetus to term, the doctor would still be prohibited from performing this procedure. Can you imagine that? A doctor would have to feel certain that carrying a fetus to term would endanger the life of the mother in order to do what is medically required for treatment.

Otherwise, the doctor could not perform this procedure even though the woman could suffer severe, permanent health damage without the procedure.

Mr. President, this bill will affect real people. Real women and families who have had to go through this procedure.

One such woman is Viki Wilson, a nurse, who 18 months ago was expecting her first child. Early tests showed the child to be normal but an 8-month ultrasound revealed that the fetus had a fatal condition—two thirds of the brain had formed outside the skull.

Carrying the pregnancy to term would have imperiled Viki's life and health. In consultation with her doctor, Viki and her husband Bill made the heartbreaking decision to undergo this procedure. This bill would make this practice illegal.

Mr. President, I would like to quote Viki at this point. She stated ''I strongly believe that this decision should be left within the intimacy of the family unit.''

So do I Mr. President.

While this bill is really extreme, the Boxer amendment would make it a little less extreme. At a minimum, we ought to adopt the amendment, which would establish a meaningful exception in cases where the life and health of the mother is at stake.

I urge my colleagues to adopt the Boxer amendment and I yield the floor.

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

Mr. LAUTENBERG. I yield the floor and hope that my colleagues will support the amendment that is proposed by Senator BOXER.

Mrs. BOXER. Mr. President, I retain the remainder of my time.

The PRESIDING OFFICER. The Senator has no other time.

Mrs. BOXER. I thought I saved some time.

The PRESIDING OFFICER. They have no time.

Mrs. BOXER. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mrs. BOXER. Mr. President, this has been a tough debate so far. We have gone through it for 3 days. Maybe this is the 4th day, Senator SMITH.

I have to say, it is emotional. Why is it emotional? Because what we are doing impacts real people. We have seen these families night after night. We have seen charts of part of a woman's body, as if she had no face. I have to say to my colleagues, if they really think about it, if their daughter came to them and said, ''Dad, I have been told the most horrible news. If I do not terminate this pregnancy, even though it is so late term, I could die. I could be infertile. And the only procedure is this procedure,'' I really do believe, if Senators are honest, male or female, they would fall to their knees and pray to God and go ahead and have that procedure.

Why would we want to risk that woman's life? Please vote ''yes'' for Dole and ''yes'' for Boxer-Brown.

VOTE ON AMENDMENT NO. 3081

The PRESIDING OFFICER. The question now occurs on amendment No. 3081, offered by the majority leader, Mr. DOLE.

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

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 592 Leg.]

YEAS—98

Abraham	Feingold	Lott
Akaka	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Bradley	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Pell
Bryan	Hatch	Pressler
Bumpers	Hatfield	Pryor
Burns	Heflin	Reid
Byrd	Helms	Robb
Campbell	Hollings	Rockefeller
Chafee	Hutchison	Roth
Coats	Inhofe	Santorum
Cochran	Inouye	Sarbanes
Cohen	Jeffords	Shelby
Conrad	Johnston	Simon
Coverdell	Kassebaum	Simpson
Craig	Kempthorne	Smith
D'Amato	Kennedy	Snowe
Daschle	Kerrey	Specter
DeWine	Kerry	Stevens
Dodd	Kohl	Thomas
Dole	Kyl	Thompson
Domenici	Lautenberg	Thurmond
Dorgan	Leahy	Warner
Exon	Levin	Wellstone
Faircloth	Lieberman	

NOT VOTING—1

Moynihan

So the amendment (No. 3081) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the underlying amendment, No. 3080, as amended, is agreed to.

VOTE ON AMENDMENT NO. 3080

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 3083 offered by the Senator from California. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

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

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 593 Leg.]

YEAS—47

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Murray
Boxer	Harkin	Nunn
Bradley	Hollings	Pell
Brown	Inouye	Pryor
Bryan	Jeffords	Robb
Bumpers	Kassebaum	Rockefeller
Byrd	Kennedy	Sarbanes
Campbell	Kerrey	Simon
Chafee	Kerry	Simpson
Cohen	Kohl	Snowe
Daschle	Lautenberg	Specter
Dodd	Leahy	Wellstone
Dorgan	Levin	

NAYS—51

Abraham	Bennett	Breaux
Ashcroft	Bond	Burns
Coats	Grams	McCain
Cochran	Grassley	McConnell
Conrad	Gregg	Murkowski
Coverdell	Hatch	Nickles
Craig	Hatfield	Pressler
D'Amato	Heflin	Reid
DeWine	Helms	Roth
Dole	Hutchison	Santorum
Domenici	Inhofe	Shelby
Exon	Johnston	Smith
Faircloth	Kempthorne	Stevens
Ford	Kyl	Thomas
Frist	Lott	Thompson
Gorton	Lugar	Thurmond
Gramm	Mack	Warner

NOT VOTING—1

Moynihan

So the amendment (No. 3083) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire is recognized.

AMENDMENT NO. 3088 TO AMENDMENT NO. 3082

(Purpose: To express the sense of the Senate that the Senate should, through the Committee on the Judiciary, conduct hearings to investigate the effect of the new patent provisions of title 35, United States Code, (as amended by the Uruguay Round Agreements Act) on the approval of generic drugs)

Mr. SMITH. Mr. President, I send a second-degree 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 New Hampshire [Mr. SMITH], for Mr. DEWINE and Mr. DODD, proposes an amendment numbered 3088 to amendment No. 3082.

Mr. SMITH. 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:

Beginning on page 1, line 3, strike ''**APPROVAL**'' and all that follows through line 22 on page 3 and insert the following: ''**SENSE OF THE SENATE.**

''It is the sense of the Senate that the Senate should, through the Committee on the Judiciary, conduct hearings to investigate the effect of the new patent provisions of title 35, United States Code (as amended by subtitle C of title V of the Uruguay Round Agreements Act (Public Law 103-465; 108 Stat. 4982)), on the approval of generic drugs under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355).''.

Mr. SMITH. Mr. President, I will try to explain the amendment.

First, I yield to the majority leader.

SCHEDULE

Mr. DOLE. Mr. President, I have been asked to indicate what may be in store for the rest of the evening. It is not certain that these are all the amendments, but we have an amendment by Senator BINGAMAN on shutting down the Government; an amendment by Senator FEINSTEIN which, as I understand it, is similar to the Boxer amendment just disposed of; a Brown amendment on deadbeat dads; then we have

the pending amendment of Senator PRYOR, which Senator SMITH will second-degree. There may be additional amendments. I think it is safe to say there will be votes well into the evening.

I yield the floor.

Mr. CHAFEE. I wonder if the majority leader has any indication, if this is disposed of this evening, what would happen tomorrow?

Mr. DOLE. We have a cloture vote scheduled on the constitutional amendment on the desecration of the flag. That could be resolved if we get an agreement on State Department reorganization. If we do that, then we can vitiate the vote on cloture and probably have debate only tomorrow on the flag amendment, but no final disposition.

Mr. JOHNSTON. Does the majority leader expect we will have a small window where we might get home to get a bite to eat?

Mr. DOLE. How close are you?

Mr. JOHNSTON. About 20, 25 minutes.

Mr. DOLE. You are not going to New Orleans, are you? I think we may have a vote in the next few minutes, and then we can probably arrange at least an hour.

Mr. JOHNSTON. I thank the majority leader.

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

Mr. SMITH. Mr. President, let me just say, for the benefit of my colleagues, I am not going to prolong the debate on this second-degree amendment. I know Senator PRYOR has some comments and Senator DEWINE wants to speak. I do not know of any others. But if others are going to speak, hopefully, they will come to the floor and we can expedite this matter as quickly as possible.

This amendment requires hearings on the relationship between GATT patent laws and the FDA Hatch-Waxman law relating to prescription drugs. At the outset, let me say I would have preferred not to have this bill, become a Christmas tree for nongermane amendments. It was hopeful that we would not have nongermane amendments. But the underlying Pryor amendment dealing with pharmaceutical products, GATT, and patent protections has nothing to do with partial-birth abortion. However, I recognize the right my colleague has to offer such an amendment, and I respect that. I hope that we will not spend a lot of time on this and delay this bill. We saw the same tactic a few weeks ago, and it seems to me that maybe there is some reluctance to face the issue at hand.

Mr. President, this second-degree amendment calls for hearings in the Judiciary Committee to look into this issue. I say to my colleague from Arkansas that it is an important issue and deserves a hearing, and I recognize that. I recognize that the Senator has a legitimate interest in this. I hope that it will not delay a vote on the bill, as other Senators have expressed interest to me—or have asked me whether or not there would be a vote tonight on final passage of the partial-birth bill. I am prepared to do that at any time. I do not know specifically of other amendments, but you never know.

If this second-degree amendment fails or if any other Senators are going to try to load the bill up, we will have to be offering second-degree amendments on all kinds of things from sex selection to Down's syndrome, and Lord knows what. Let's hope we do not get into all that.

Hopefully, Mr. President, why don't we just vote and move on and see where the votes fall on this bill.

If we want to talk about patent protections, come to the hearing and testify about patent protections. Then when the Senate is ready to vote on that, when we can come down and debate it.

It is a very complicated issue, patents and trade. I don't think it ought to go through the Senate in a hurry without having an opportunity to hear from both sides. The Senator from Arkansas voted a couple weeks ago to have a hearing on partial-birth abortion, and we did. I was not originally in favor of it, I admit, but we did have the hearing.

I did reconsider my views and allowed it to be sent to the committee. I hope the Senator from Arkansas will do the same.

I urge my colleagues if there is a vote to vote for the Smith amendment so we can have a full hearing under this issue of patent protection. I yield the floor.

Mrs. BOXER. Before my colleague from Arkansas speaks on this particular subject which he has been such a leader on, I wanted to make a comment that President Clinton has long believed that it is important to protect the life and the health of a mother, of a woman.

We know he will, in fact, veto this bill because the Senate now voted this down. A very close vote. I want to thank my colleagues who stood with Senator BROWN, with me, and with those who feel so strongly about this, that we must put a woman's face on this debate.

I am very moved by the vote that we had. It sends a very strong signal to the President of the United States: That 47 Senators, notwithstanding incredible organized phone banks, et cetera, stood up for the life and the health of the women in this country. I am proud that you stood with me. I am proud that you stood with women.

I want to particularly thank in that context every one of my colleagues that spoke on this. Senator MOSELEY-BRAUN spoke so eloquently yesterday and she made the point that the women of America will have to wake up to what is happening to their rights. She did that in the most beautiful fashion. I urge everyone to read the RECORD, because this assault on a woman's right to choose has begun in earnest.

When people do go to the polls they will have to decide where they stand. Could they stand with a Government that wants to get right into the hospital room with your family, right into your bedroom with your family, or do they believe that the families in our country with their God and with their conscience can make those kind of decisions?

I am very moved by the vote that we had. I will certainly vote against the final passage of this bill. Senator FEINSTEIN will be offering us an excellent substitute which basically restates the law of the land that says in the late term of a pregnancy the States control what happens in these late-term abortions.

I think everyone was very surprised by this vote. I was moved by the vote. I hope colleagues will vote ''no'' on final passage, since there is no exception for the life of the mother. The Senate voted for a partial exception, and therefore it makes it a very, I think, weak bill, and the President has said he would veto it. I applaud that.

I yield the floor.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me. Mr. President, the day before yesterday I introduced an amendment on behalf of myself and my very good friend from Rhode Island, Senator CHAFEE, and our good friend from Colorado, Senator BROWN.

Mr. President, I ask unanimous consent that Senator Robert BYRD of West Virginia be added as an original cosponsor of this amendment.

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

Mr. PRYOR. Mr. President, what we are seeing here tonight on the second-degree amendment, and I say this in all due respect to my colleagues who have offered this second-degree amendment to this principal amendment, this is merely an attempt to kill the Pryor-Chafee-Brown-Byrd amendment. That is it, pure and simple.

First, it is a sense-of-the-Senate resolution which all of us know in this body has no force of law. It has no real meaning. It has no traction, as we say around here. Beyond that, it does not require any Committee to hold any hearing at any specific time.

It merely says that the Judiciary Committee would conduct hearings to investigate the effect of the new patent provisions of title 35 U.S. code as amending subtitle C. of title 5 of the Uruguay Round agreements.

Mr. President, this amendment would probably end up in the wastebasket. There is no date certain for a hearing. Additionally, the amendment sends instructions for a hearing, under this sense-of-the-Senate amendment, to the Judiciary Committee. It would not be sent to the Labor Committee that has jurisdiction over food and drug issues. It is being sent to the Judiciary Committee of the U.S. Senate.

Once again, there is no date certain for when a hearing might be held on

the effect of the proposal that we are discussing this evening in the U.S. Senate.

Make no mistake, what this amendment is all about is an attempt to kill the Pryor-Chafee-Brown-Byrd amendment. It is a tactic to delay. It is a motion to protect one of the greatest windfalls that we have ever created in the history of our entire Government.

Now, Mr. President, I have several things I want to say during the course of this debate. I see my very good colleague, Senator CHAFEE, my colleague on the Finance Committee, who has been so loyal as a friend and as a supporter in trying to close this loophole that we created when we did not conform the food, drug and cosmetic law to the GATT treaty and its provisions.

Mr. President, I also see my friend from Colorado, Senator BROWN, an original cosponsor of our amendment.

Mr. President, expecting that my colleagues might have something to say on this issue, for the moment I yield the floor and I reserve the opportunity to address this issue further.

Mr. CHAFEE. Mr. President, I want to take a moment to discuss the pending amendment. This is really a very simple issue.

Under the Uruguay Round the nations agreed to boost protection of patents significantly. This was an historic step. Indeed, this was the first time that in these multilateral trade agreements such as this, the GATT, we became involved with so-called intellectual property.

In order to implement the provisions of the commitment to increase the protection for patents, the Congress changed the U.S. patent law from 17 years from approval to 20 years from filing date. This was a change to conform with GATT.

To be fair to existing patent holders, Congress gave those existing patent holders the option of taking the longer term. As a result, those holding patents as of June 1985 received an extension of up to 3 years.

However, granting this extension affected generic drug manufacturers who had been preparing to go to market after the original patents expired. To be fair to them, too, Congress made a compromise: manufacturers who had already made a substantial investment preparing to go into the market, would be allowed to proceed—but they would be required to pay a royalty to the holder of the patents. This was a carefully worked out compromise.

This transition was made available to all manufacturers, not just generic manufacturers of drugs. There are generic manufacturers of blue jeans and every other patent. Wherever there is a patent involved someone is waiting for the patent to expire and then come forward with their own product.

The product is called a generic product—not just a generic drug, but generic blue jeans, or whatever it might be. However, Congress made an error. It is not the first error Congress has ever made, but it was a costly one. We failed to consider a conforming amendment to the patent provisions of the Food, Drug and Cosmetic Act, which Senator PRYOR previously alluded to.

The consequence of this oversight is that one group of generic manufacturers—in other words, those coming on with a substitute product—had been denied the benefits of this transition provision. These were the generic pharmaceutical manufacturers. So, while the manufacturers, that is the manufacturers who had the patent of these branded pharmaceutical products, got an extra 3 years, the generic drug manufacturers were cut out altogether from transition remedies—from doing anything.

This oversight, if left uncorrected, I must say, is a wonderful windfall for the pharmaceutical manufacturers who are protected by it, who got this windfall which was never planned for. This windfall is in the area of billions of dollars—not millions, but billions. So, quite understandably, they are very enthusiastic to prevent anything from happening around here, to prevent the Pryor amendment from going into effect. Obviously, others can give illustrations of this.

What will be the effect of the passage of the Chafee-Brown-Pryor-Byrd amendment? First, it will level the playing field by making the GATT transition provision available to generic drug manufacturers like it is to generic blue jeans manufacturers, or whoever it might be. This is what we intended. Second, it will stop the unintended, and therefore unfair, windfall. And, third, it will save consumers, insurers, and, I might say, the Government—because the Government will benefit greatly from getting their Medicaid prescription drugs at a far lower price than otherwise would be true.

There are two counterpoints that opponents of this will make. Some have warned that this amendment would negate or otherwise affect the hard-won gains that came about through GATT and the intellectual property protections. That is a red herring. The STR, the Special Trade Representative, has assured us that our amendment will not in any way interfere with the GATT intellectual property protection rights. In fact, the USTR supports this amendment, for they say the conforming amendment—namely, the Pryor effort—should have been included in the GATT bill but was overlooked inadvertently.

Now, as to the argument that our amendment would upset the delicate balance of the Hatch-Waxman Act, that also is a red herring. This is not about Hatch-Waxman; this is about GATT. Officials of the Food and Drug Administration have assured us that our amendment absolutely would not disturb the so-called Hatch-Waxman Act. Let me say, if this were interfering with GATT in some way, the intellectual property provisions, I would not be for this amendment.

This is what we might call a ''good Government'' amendment. It seeks to close a loophole which was unintentionally created. We made a mistake, and now we are trying to correct it. Does it have any support outside of those of us here? Certainly a broad coalition of senior citizens and consumer groups support it. Furthermore, it is the right thing to do. Occasionally we do the right thing around here.

I certainly hope that this amendment of the Senator from Utah, to send this back, and the Senator from New Hampshire, would not prevail. I hope it will not prevail because, if it does prevail, that does in the Pryor effort here.

Could I ask the Senator from Arkansas, does this amendment provide for a date that the hearing must be completed?

Mr. PRYOR. Mr. President, I respond to my colleague from Rhode Island, there is absolutely no date set forth in the sense-of-the-Senate resolution to require the Judiciary Committee, or any other committee of the Senate, to hold a hearing. It is totally open ended. Again, there is no date specified in the sense-of-the-Senate resolution.

Mr. CHAFEE. I have a question for the distinguished Senator from New Hampshire. He mentioned the sending of his bill back to committee for a study. I guess the Senator from New Hampshire supported that in the end, reluctantly.

My question is this: Did that amendment, that sent the Senator's bill back to committee, have a date at which the committee must report back? As I recall, it did. I may be mistaken.

Mr. SMITH. I believe it was 17 days, I say to my colleague, Senator CHAFEE. But I need to check that.

Mr. CHAFEE. I certainly would abide by whatever the Senator says, and if he wishes to correct it later, that is fine. But, as I recall, when that was sent, Senator SMITH's bill which came up here, say, a month ago, when that was sent back to committee, that was sent back with a time limit to it, a definite period. Whether it was 17 days or 3 weeks or whatever it was, I am not sure. But I remember, to the best of my recollection, there was a time certain. Yet, in this case, the Senator from New Hampshire, in his amendment, has not provided for a date certain. What does the Senator from Arkansas suggest on that? Would this be more palatable if there was a time limit?

Mr. PRYOR. Let me respond, Mr. President, to my friend from Rhode Island once again. It would certainly be more palatable if we had an imminent date for the Judiciary Committee to hold such a hearing. But, to be honest, I do not think a Judiciary Committee hearing is going to give us any more facts than we know today. We pretty well have the facts. Those facts are that the Congress made an mistake. We created an error in the GATT legislation. We opened a loophole, and now we have an opportunity to fix it.

As the Senator from Rhode Island just stated, this is really a very, very

simple matter. It becomes dramatic because of all the dollars involved: All the dollars that appeared unexpectedly in a windfall that goes to a small handful of drug companies that had no idea a year ago that this windfall would occur and that these billions of dollars would basically be falling out of the trees into their bank accounts.

So I say, even if there were a day certain, we are about to leave for Christmas. If we even set a day certain of 10 days from now, perhaps the Senate and the House will not even be in session. We do not know when we are coming back in session next year. So I say once again, this is an attempt to kill the original Pryor-Chafee-Brown-Byrd amendment.

Mr. CHAFEE. I would ask the Senator from Arkansas another question. It seems to me that this is an odd provision, in that it is referred to the Judiciary Committee, yet the jurisdiction of the Food and Drug Administration is in the Labor Committee.

Mr. PRYOR. The Senator is absolutely correct.

Mr. CHAFEE. So, why is this being sent to the Judiciary Committee?

Mr. PRYOR. I believe the distinguished Senator from New Hampshire is the author of this amendment. Perhaps he could advise us as to why the amendment is being sent to the Judiciary Committee.

Mr. SMITH. The Senator from New Hampshire is not the sponsor of the amendment. The Senator from New Hampshire offered the amendment.

Mr. HATCH. If the Senator will yield, I will be happy to answer that. I will be happy to answer that. It is because it involves a hallowed and important element in the history of this country and in the world, and that is patents. We happen to handle patents. It involves intellectual property. It also involves an international intellectual property agreement which we better be careful of here, because there are a lot countries out there that do not honor intellectual property.

There are a lot of countries out there that do not believe in patents. Or, if they do not believe in patent terms—if, after a multiyear negotiated agreement in international relations, intricate, negotiated every line of that agreement—it is bunk to say that this was a mistake. We then retrench on patent terms the first time out of the blocks when we have gone all over the world talking about intellectual property, respect for intellectual property, and for other countries to treat American products fairly. And right out of the blocks we say we have to do away with that, you send a message that we are going to wreck the world window on the rest of our lives. We have taken years to get to this point.

I am going to have a lot to say on why there are two sides to this thing, and that it is more important to uphold the international treaty, uphold the international patent protection, than it is to demagogue on this particular issue.

I will make my points afterwards. But the reason it is sent to the Judiciary Committee is because it involves the most important aspects of the patent law and intellectual property law. That is what is involved here.

Mr. CHAFEE. Mr. President, first of all, if it involves treaties, then, of course, it goes to the Finance Committee. The last place in the world it should go is the Judiciary Committee.

Mr. HATCH. Not if it involves patents.

Mr. CHAFEE. If you want time, you can have time after I finish.

We have a letter from Mickey Kantor, U.S. Trade Representative, September 25, 1995:

> The extension of the section 1534(c)—that is what we are doing here to pharmaceutical property products—would not undermine ongoing U.S. efforts to seek high levels of intellectual property protection around the world.

So there is no problem here with patents. That does not have anything to do with it. The fact of the matter is that this reference, if indeed it should be made—I do not think it should—but if it should, it should go to one of two places: The Finance Committee, which deals with trade, or the Labor Committee, which deals with FDA. I would be far happier to see it go there than to the place suggested.

Mr. PRYOR. Mr. President, if the Senator from Rhode Island will yield—then I want to hear, and I know we all do, our friend from Colorado, Senator BROWN—I'd like to ask if in the history of the Judiciary Committee has that committee held hearings on the Food, Drug and Cosmetic Act? That committee does not have jurisdiction over this act, yet that is where we are about to dump this issue.

The second point I would like to raise is my friend from Utah, Senator HATCH, has talked about, ''Oh, this is relating to patents. We have to protect these patent rights.'' That seems ironic, since on June 7, 1995 the United States Patent Office ruled—the Patent Office ruled, Mr. President—that they determined the expiration dates of the patents in question. They are in force on June 8, 1995 and, therefore, are entered into the greater of the term of 20 years from their relevant filing days, or 17 years from grant. In other words, they held in our favor. The Patent Office held in our favor that the generics could in fact come in and compete with the brand-name companies. Of course, the brand-name companies with all of their high-powered lawyers, money, et cetera, moved on to the courts. And because the courts interpreted literally our mistake as being the intent of Congress, and I must say that I think they made a mistake, Glaxo and other major pharmaceutical companies won out.

I would like to make one more point, and then I am going to sit down for a spell.

The PRESIDING OFFICER. The Senator from Rhode Island controls the floor.

Mr. CHAFEE. I would certainly like to hear the Senator make that explanation, if he might.

Mr. PRYOR. I would like to just say, if we allow this situation to persist and refuse to close this loophole, let us for a moment look at what is going to happen to one pharmaceutical company that has inherited this windfall. Let us look at Glaxo. They make Zantac. Here is some Zantac. It cost $170 a bottle. You can go over to Canada, by the way, and buy this for about $70 a bottle. Or, if in our country we had the competition for Zantac on the shelves today, as we should have occurred earlier this week, it would cost about half of what this $170 bottle of Zantac cost.

But, if we go forward, let us say even for an additional 30 days and allow this windfall to continue, or let us say just to Christmas day—and Christmas day is just a few days away, Mr. President—Glaxo is going to make another $115 million. If we hold a hearing in the Judiciary Committee, say next November, and then keep this thing in effect, maybe until 1996, a year from Christmas and do not correct it until a year from this Christmas, this one company—because of our mistake and because of our refusal to correct that mistake—will have made an extra $2.328 billion.

Do we want our patent law in this country to be based upon an error, to be based on a mistake that we made, and refuse to correct? I do not think so, Mr. President.

I look forward to hearing some of the comments from other colleagues who feel, I believe, as strongly about this issue as I do.

Mr. CHAFEE. Mr. President, I would like to ask the Senator from Arkansas one more question. I understand that these substantial amounts will be made by the companies that they would not otherwise make, if we corrected this. My question is: But, if we correct it sometime in the future, then is there a refund in some type that occurs? Does it undo itself, or everything is just prospective?

Mr. PRYOR. The way that I understand the law, I say to my friend, if a generic company has been out there and has made what we call a substantial investment where they are ready to come into the market at the end of the 17-year patent protection period, then the generic would be allowed to go on the shelves, to go on the market, to be advertised, to be marketed, selling for one-half of what the brand name sells these drugs for today. At that time a royalty for this time that was unexpired—like for 600 additional days for Glaxo and Zantac—a royalty would be paid even to the Glaxo company by the competing generic drug company. The amount of that royalty would be established in a court of law, and there is a system whereby that amount would be established.

I think that is the question the Senator from Rhode Island is asking.

Mr. CHAFEE. I understand that. But now my question is: But, let us assume

that this is referred back to this committee—the wrong committee, as it turns out, but nonetheless it is referred back—nothing happens, and finally let us say in March we straighten out the law, then retroactively is there some compensation that takes place?

Mr. PRYOR. Mr. President, I apologize to my friend from Rhode Island. I did not understand his original question. I do now.

In other words, if we were to correct this, even in March or April, whenever, and admit we made a mistake, which we did and we all agree that we did, then the company gets to keep all of that money. There is no refund. The Medicaid programs have continued to pay the highest price for these drugs. The Veterans Administration has continued to pay the highest price for these drugs. The consumers get no rebate. The consumers get no relief. The only benefit accrues to a very few drug companies that we failed to include in the coverage of the new law in the GATT treaty. They get to keep all of these excess profits. And that is what this fight is all about. Every time, every day that these drug companies get to keep this amount of money, these exorbitant profits, this windfall, it comes out of the pocketbooks of the consumer, the veterans, the Medicaid programs, and every citizen of this land.

Mr. CHAFEE. I thank the Senator. I thank the Chair.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I appreciate the thought. I wish to assure my good friend from Ohio that I will not be long.

I hope Members, as they vote on this, will consider a couple of points. I don't think these are in dispute. If they are, I know my good friends will correct me. But I think every Member ought to be aware that this amendment is very important and would have a significant impact on the Treasury of the United States. The estimates are that this will save the taxpayers in the neighborhood of $150 million. It may be more than that, but CBO has come forward with that figure. So one of the things Members ought to think about is the dramatic, significant increase in revenue and reduction of the deficit that this amendment can have if it is passed.

Second, many Members may have read the Newark Star Ledger's editorial of October 26. Let me quote it:

> Thanks to a gigantic loophole resulting in the GATT, consumers may wind up paying as much as $6 billion more for higher priced brand name drugs.

Mr. President, I do not know if the $6 billion figure is correct or not. That is an estimate by the paper. I must say my own estimate is less than that. But there is no question this is big, big, big money, and it comes right out of the pockets of the consumers of this country.

So the two things that I think are really without question here are first that the amendment offered by the distinguished Senator from Arkansas is a friend of the taxpayers of this country. It has a significant impact in a positive way on reducing the deficit.

Second, this amendment is very much a friend of the consumers in this country. It saves the consumers of this country literally billions of dollars. Is it the $6 billion the Newark paper talked about? My guess is it is less than that. But it is a huge amount. If you are concerned about the consumers of this country, you ought to be in favor of it.

Two other points have been raised, and I think they merit addressing. One is, is this fair? Is it fair to adjust the rules? Well, let us take a look at it. When the patent for this medicine was granted, it extended 17 years from the time of filing. Is that diminished in any way if this amendment passes? The answer is no. The answer is absolutely no. The drug company gets exactly what they thought they were getting when they filed for the patent. They do not lose in any way. They get exactly what they were offered at the time they developed the product, at the time they marketed the product, at the time they put the factory together to produce the product. Nothing has changed.

What do they lose? They lose the windfall that came from the treaty.

If you are on the subject of what is fair, let us ask ourselves, what if you were a different firm? What if you were a firm that was aware of the drug and aware of the law and got geared up to produce a competitive product in reliance on the laws of this Nation, and the laws of this Nation said the exclusivity ends after 17 years.

For this particular drug, there are competing companies. There are companies that relied on the law. There are companies that made investments. They put together a plant to produce this, and they geared up to produce it and sell it on the market. If you are concerned about fairness, you should not be concerned about Glaxo. They got exactly what they invested for. You ought to be concerned about the companies, honest people who invested in facilities and plants and processes in reliance on our law and had the product taken away from them after they made that big investment. Now, if you are concerned about fairness, you ought to be in favor of the amendment, not against it.

Last, Mr. President, let me simply add one other thing that I think is important. It has been suggested on this floor by a number of people that doing this somehow will be inconsistent with our treaties under GATT, and the very distinguished chairman of the Judiciary Committee has just pointed out what a great investment we have in intellectual property. He is absolutely right.

I might say, Mr. President, from my point of view, if you were going to send this to a committee, I would think the Judiciary Committee would be a great committee. It has some of the brightest, most able Members, and the most modest, too, in the Senate. But the point is this should not go to committee at all. The point is if you send it to the committee, what you do is you cost consumers hundreds of millions of dollars just by the delay, and you cost the taxpayers some money, too.

I think the last point that deserves addressing is this one. Are we doing something, with the Pryor amendment are we doing something that violates the GATT treaty? We do have—and I acknowledge it—a vested interest in making sure that treaty is honored.

For that point I wish to draw Members' attention to some information. It is the treaty itself. I know a lot of Members did not get a chance to read it, and having tried to read it myself I understand why. But there are some interesting things you find out. I wish to read you the precise words of the agreement itself because it relates specifically to this point. And I am talking about part VII. This is under article 70. The title is: ''Protection of Existing Subject Matter.'' In paragraph 4, there are the following words:

> . . . or in respect of which a significant investment was made, before the date of acceptance of the WTO Agreement by that Member, any Member may provide—

By ''Member'' they are referring to a country—

> for a limitation of the remedies available to the right holder as to the continued performance of such acts after the date of application of this Agreement for that Member. In such cases the Member shall, however, at least provide for the payment of equitable remuneration.

Mr. President, the treaty itself anticipates exactly this kind of legislation. Let me repeat it. This amendment in no way is at odds with the treaty. It in no way violates the treaty. As a matter of fact, the exact words of the treaty anticipate this very action.

Now, to suggest that we somehow are jeopardizing our intellectual property rights by taking this action, I do not believe conforms with either the spirit of the treaty or the precise words of the treaty. The reality is if someone has made a substantial investment relying on our current law, we have a right under the treaty, in specific terms, to do this.

Mr. President, there are two editorials at this point I would like to enter into the RECORD because they make the point very well. One is by the Des Moines Register and the other is by the Washington Post. I ask unanimous consent that they be printed in the RECORD.

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

[From the Des Moines Register, Nov. 27, 1995]

A COSTLY OVERSIGHT—FINE PRINT IN GATT LAW COULD COST ZANTAC USERS MILLIONS

The nation's prescription drug makers are at war again, with a $1 billion-plus purse

going to the winner. If the brand-name drug manufacturers win, the losers will include the millions of Americans who suffer from ulcers or heartburn, and take the drug Zantac regularly to combat the problem. It's going to cost each of them about $1,600.

Zantac is made by Glaxo Wellcome, the biggest in the business.

Here's what started the current war:

When a new prescription drug hits the market, generic drug manufacturers await the patent expiration so they can enter the market with the same drug. They offer it for sale without the brand name, usually at a fraction of the brand-name price.

The new international GATT treaty signed by the United States and 122 other countries sets the life of a patent at 20 years from the date of application. Former U.S. law provided patent protection for pharmaceuticals for 17 years from the date of approval. Because the difference could have a significant impact on the number of years a firm could market its patented drug without competition. Congress made special provisions for drugs under patent at the time GATT was approved last summer.

But when the legal beagles got done reading all the fine print, it turned out that Zantac was granted a 19-month extension of its patent life—and it is such a hugely popular drug that that translates into a multimillion-dollar windfall.

Generic drug makers call the windfall a congressional oversight, and estimate the difference is worth $2.2 billion to Glaxo, because the generics can't enter the market for 19 more months. Glaxo counters that Congress made no mistake, that the extension was part of the compromise with generics. It won't wash. Nothing in the GATT treaty was intended to further enrich the happy handful of brand-name drug makers who hold lucrative patents—or to penalize the users of the drugs.

A month's supply of Zantac ordinarily sells for around $115; the generic price—meaning the same drug without the Zantac label—would be around $35, the generic makers contend. Unless Congress changes the wording of the law regarding transition to GATT provisions, Zantac users will pay the difference for 19 months longer.

Some generic drug manufacturers had already spent a bundle preparing to enter the market before the GATT treaty took effect. They lose. So do taxpayers, who pay for Medicaid prescriptions. The Generic Drug Equity Coalition estimates that the higher cost of Zantac and some other drugs affected by the mistake (such as Capoten, for high blood pressure) will cost Iowa Medicaid $3.5 million. Further, say the generic drug makers, it will tack another $1.2 million onto the cost of health-insurance premiums for Iowa state employees.

Glaxo's political-action committee has doubled its contributions to Congress in recent months. Glaxo wants the mistake to stay in the law. Generic drug manufacturers want it out.

So should ulcer sufferers. So should taxpayers. So should Congress.

[From the Washington Post, Dec. 4, 1995]

THE ZANTAC WINDFALL

All for lack of a technical conforming clause in a trade bill, full patent protection for a drug called Zantac will run 19 months beyond its original expiration date. Zantac, used to treat ulcers, is the world's most widely prescribed drug, and its sales in this country run to more than $2 billion a year. The patent extension postpones the date at which generic products can begin to compete with it and pull the price down. That provides a great windfall to Zantac's maker, Glaxo Wellcome Inc.

It's a cast study in legislation and high-powered lobbying. When Congress enacted the big Uruguay Round trade bill a year ago, it changed the terms of American patents to a new worldwide standard. The effect was to lengthen existing patents, usually by a year or two. But Congress had heard from companies that were counting on the expiration of competitors' patents. It responded by writing into the trade bill a transitional provision. Any company that had already invested in facilities to manufacture a knock-off, it said, could pay a royalty to the patent-holder and go into production on the patent's original expiration date.

But Congress neglected to add a clause amending a crucial paragraph in the drug laws. The result is that the transitional clause now applies to every industry but drugs. That set off a huge lobbying and public relations war with the generic manufacturers enlisting the support of consumers' organizations and Glaxo Wellcome invoking the sacred inviolability of an American patent.

Mickey Kantor, the president's trade representative, who managed the trade bill for the administration, says that the omission was an error, pure and simple. But it has created a rich benefit for one company in particular. A small band of senators led by David Pryor (D–Ark.) has been trying to right this by enacting the missing clause, but so far it hasn't got far. Glaxo Wellcome and the other defenders of drug patents are winning. Other drugs are also involved, incidentally, although Zantac is by far the most important in financial terms.

Drug prices are a particularly sensitive area of health economics because Medicare does not, in most cases, cover drugs. The money spent on Zantac is only a small fraction of the $80 billion a year that Americans spend on all prescription drugs. Especially for the elderly, the cost of drugs can be a terrifying burden. That makes it doubly difficult to understand why the Senate refuses to do anything about a windfall that, as far as the administration is concerned, is based on nothing more than an error of omission.

Mr. BROWN. Mr. President, let me simply conclude this way. If you are concerned about the taxpayers, you ought to like the Pryor amendment because the CBO says it brings us in $150 million, or saves it. If you are concerned about the consumers of this country, you ought to be in favor of the Pryor amendment because it is going to save them $6 billion, if you believe some estimates, or a little less if you believe my estimate.

If you are concerned about fairness, you ought to be in favor of the Pryor amendment because people have invested money in plant and process and production capability to comply with our laws and they are simply out by this windfall.

Last, Mr. President, if you are concerned about the integrity of our protection of intellectual property, you ought to be for the Pryor amendment because this is precisely and exactly what the treaty anticipated.

I yield the floor.

Mr. BRYAN. Mr. President, I have come to the Senate floor a number of times to talk about prescription drug pricing, and to support Senator PRYOR's efforts to control the costs of drugs. Today I am pleased to cosponsor Senator PRYOR's amendment to correct the GATT treaty loophole that creates a windfall profit for certain prescription drug companies.

The GATT treaty, voted on by Congress, included two important provisions that affected every product, company, and industry in the country. One, provided that all patents would be extended from 17 to 20 years; an additional 3 years of protection. Two, provided that a generic company, in any industry, would be permitted to go to the marketplace and compete on the 17-year expiration date, if the generic company had made a substantial investment, and was willing to pay a royalty.

An unintended loophole was created, however, when the prescription drug industry was accidently excluded from the generic competition provision. The loophole means that prescription drug companies have a 3 year longer patent period, without any competition during that time extension from generic companies. This loophole has created a multimillion dollar windfall for certain drug companies that must be corrected.

Seniors use prescription drugs more than any other age group. For them, this loophole means they will pay higher drug prices for 3 years because of a mistake. Without the ability of generic drug companies to compete, drug prices will remain artificially high during that 3-year period. There is no reason why seniors should suffer because of an unintended mistake that can be corrected today.

What drugs are involved here? More than 100 drugs would be protected from generic drug competition. The world's best-selling ulcer drug, Zantac, would cost twice as much as it should because of the loophole. The hypertension drug, Capoten, will cost 40 percent more than it should because of the loophole. Additionally such drugs as Mevacor for lowering cholesterol, Prilosec for ulcers, and Diflucan, an antifungal agent are affected.

This loophole will also affect the drug prices paid by the Medicaid Program. Medicaid already faces deep cuts in its funding. If this loophole is not corrected, Medicaid will be forced to pay higher drug prices during the 3-year period, further straining its ability to provide medical care for the most vulnerable in our country.

Veterans will also suffer as the Veterans Affairs Administration will be forced to pay higher drug prices. People using public health services will also be affected. The bottomline is that taxpayers will pay more for the drugs used by these programs than they should, because competitive generic alternatives will not be available.

There is no reason to allow some prescription drug companies an unintended windfall profit to the detriment of all Americans who depend on drugs for their continued health. Seniors, veterans, and the most vulnerable in our country particularly deserve our protection from unnecessarily high

drug prices. I hope my colleagues will see this loophole for the mistake it is, and support this amendment to correct it.

Ms. MOSELEY-BRAUN. Mr. President, I would like to take this opportunity to express my support for the Dodd-DeWine amendment. This amendment would require the Judiciary Committee to hold hearings on the GATT patent extension provisions. The GATT issue is a complex one and requires full disclosure. The Pryor amendment has no place on the partial birth abortion bill. Hearings are appropriate and, in my opinion, critical to ensure that the members of this body fully understand the issue and the implications of any action to modify the GATT agreement.

The Pryor amendment would modify the current General Agreement on Tariffs and Trade [GATT] as it applies to patent protections for pharmaceutical products. This amendment, which was voted down in the Finance Committee, has been portrayed as a technical correction to the General Agreement on Tariffs and Trade [GATT] agreement. It is not. This amendment opens up an international agreement on trade to resolve a domestic intra-industry dispute. It is shortsighted, counterproductive and will impede the availability of life saving drugs and therapies for all of us.

Before, I discuss substantively the issue at hand, I would like to state unequivocally that I firmly believe that all persons who are sick should have access to affordable, comprehensive health care services. In 1992, I campaigned on the issue of health care reform and I remain firmly committed to that goal. My views on the GATT patent extension issue are in no way inconsistent with my support for reform. In fact, I believe present attempts to undo and reopen GATT could have an adverse impact on the development of state of the art medicines and treatments, which in turn deny all of us the benefit of advances in medical science.

At question, is a provision, in the newly adopted agreement, that provides additional patent protection to pharmaceutical products. GATT provides 20 year patent protection to all products and industries covered by the agreement—there are over 1 million patent holders in the United States who will receive extended patent protection. This change, which extends U.S. patent protection from the current 17 years from the date the patent is granted to 20 years from the date of filing, conforms U.S. patent law to the international standards agreed to under GATT. The agreement, including the patent provisions, was overwhelmingly approved by Congress last November. The Pryor amendment would repeal the patent extension provisions as they apply to pharmaceutical products. Some of my colleagues believe this amendment is needed because they believe the patent extension provisions were a mistake and that an inadvertent windfall to a handful of pharmaceutical companies was created. I do not believe this assertion is fair or accurate.

The GATT law was very clear. The implementing legislation provided that, in certain circumstances, individuals or organizations that had relied on the shorter expiration term could use the patented technology during the extension period, although they must pay a royalty to the patent holder to do so. Section 102 of the GATT, however, states that ''Nothing in this Act shall be construed . . . to amend or modify any law of the United States . . . unless specifically provided for in this Act.'' GATT changed many areas of patent law, but it did not change current Federal law that prohibits the FDA from granting approval for the manufacture of generic drugs until the patent term on the original product has expired. On May 25, the FDA ruled that nothing in the GATT explicitly overrules this provision and on November 1, the court of appeals for the Federal circuit also upheld the patent extension provisions in GATT.

The actions by the FDA and the Federal circuit court of appeals underscore the purpose of the GATT treaty which is to make trade laws more uniform and consistent. Uniformity is needed to prevent countries from passing laws that are favorable to their own domestic companies; 110 countries worked for over 7 years to complete negotiations on GATT. The intellectual property issues were among the most contentious. The essential goal of patent protections are to allow companies and individuals to invest freely and securely in the development of important and needed products. If companies are provided exclusive protection over an innovation, they are more likely to invest the necessary resources into developing a safe and effective product. This kind of market stability and security are vital with respect to pharmaceutical products, which require enormous R & D resources. Achieving better protection of intellectual property was a major victory for the United States as U.S. manufactured products, trademarks, and services are increasingly counterfeited abroad. The agreement is final and cannot be renegotiated without putting these hard fought, and hard won, protections at risk.

The patent language in GATT gives the United States greater assurance that innovations that originate here will not be pirated by foreign firms. The benefits of the provisions cannot be overstated. First, it will provide American companies the economic and intellectual security needed to develop safe and effective new products; second, it will ensure stability in the U.S. pharmaceutical market. This will not only stabilize the U.S. market, but also protect U.S. jobs. Third, it will ensure research and investment by U.S. companies on products that are needed to treat fatal disease. To change this international agreement now, because of an intra-industry dispute, invites retaliation from other countries eager to undo our gains.

One of my main concerns is that if the United States is seen as hesitant about implementing this part of the new GATT, a number of countries that have been reluctant to prevent their firms from pirating United States products would have the excuse they need to go slow in implementing the agreement, or to avoid implementing it at all. That would result in the destabilization of the U.S. market, a loss of U.S. exports and U.S. jobs, have a letter here, that I would like to place in the RECORD from Sir Leon Brittan, Vice President of the European Commission, that comments on a proposed changes to the patent extension provisions in GATT. Brittan states that ''this threat causes serious concern to the European research-based pharmaceutical industry and to the Commission, and it seems to be in contradiction with the long-standing U.S. policy of providing strong protection for research-based, intellectual property right both home and abroad.'' Brittan also notes that changes to the GATT law in the area of patent extension will set back hard-won improvements in universally agreed upon patent protections.

Finally, I would like to return to my first concern—consumer interest. On average it takes 12 years and $360 million to bring a new drug to market. Research-based, pharmaceutical firms spend nearly $18 billion annually on research and development. This emphasis on R&D has produced treatments not only for common conditions and ailments, but also for life-threatening diseases. The United States invests more than any other nation on research. I have received numerous letters from patient groups that are very concerned that modifications to GATT will adversely impact research and development, particularly on orphan diseases for which there is little or no ability to recoup the up-front, financial investment. At the close of my statement I will insert several of these letters for the RECORD. We must continue to increase our investment if we are to discover cures and effective treatments for diseases that continue to plague millions of Americans like AIDS, Alzheimers, Parkinson's disease, and cancer.

Some have maintained that repealing the patent-extension provisions, as they apply to pharmaceutical products, is appropriate, because it would make available cheaper versions of a limited number of name-brand drugs a few months earlier than they would otherwise be available. I believe there is a more compelling issue regarding the balance of trade and the larger consumer interest. Increased patent protection ensures that research and development will continue in, not only, the medical field, but also in all areas of innovation. This country leads the world in research and innovation; it

contributes to the public good both here and abroad, and every American benefits from our leadership. Changes to the GATT agreement that seek to repeal patent extensions for only one class of innovations are, in my opinion, shortsighted. Such changes will decrease private sector revenues for research and development, compromise U.S. leadership on intellectual property protection, and adversely impact the competitiveness of U.S. companies in relation to their foreign counterparts.

The competitiveness of U.S. industries is of great concern to me since I became a Member of this body 3 years ago. This is because of the inextricable linkage between competitive industries and the growth and maintenance of U.S. jobs. This is why I supported legislation such as NAFTA, GATT, product liability reform. I have given careful consideration to all of the these issues. I am convinced that these measures will increase the ability of U.S. industries to compete and lead to a more viable job market. The patent-extension issue is a complex one, and I believe, any action by Congress to modify the GATT agreement should only be undertaken after a thoughtful and thorough review of the long-term implications of such action. It is for these reasons that I must oppose the Pryor amendment.

I ask unanimous consent that the letters referred to earlier be printed in the RECORD.

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

UNITED PATIENTS' ASSOCIATION
FOR PULMONARY HYPERTENSION, INC.,
Speedway, IN.

Hon. CAROL MOSELEY-BRAUN,
Hart Senate Office Building,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: I'm writing to you on behalf of 400–500 Americans who suffer from a very rare and very deadly disease known as Primary Pulmonary Hypertension (PPH). Until recently, the best hope for long-term survival from PPH was through a lung or heart/lung transplant. However, today, thanks to research which dates back to the 1970's, a new drug was recently approved to treat PPH which not only is extending these patients' lives but is allowing them to live full, active and productive lives.

I have learned that some generic companies are now trying to change the law so that they can gain financially by bringing their products to market before the patents on the pioneering companies' products expire. I can attest to the value that research-based companies bring to patients as a result of strong patent protection, and I urge you to oppose these efforts.

While I appreciate the cost savings that generic drugs can offer in the short term, I also know that innovative new therapies for complex, life-threatening diseases will come only from research-based pharmaceutical companies. When it comes to serving patients suffering from deadly orphan diseases like PPH, it is the research-based companies that give us hope.

Glaxo Wellcome recently received approval to market the first medicine that will significantly extend the life, greatly improve the quality of life, and help avoid complex, risky surgery for people suffering from PPH. I know of no generic drug company that would commit the millions of dollars or many, many years of research to discover or develop such a medicine, and it is unlikely that they will ever produce a generic version for a patient population so small. There are many other similar patient populations who depend on the research-based companies to bring these new medicines to market.

The purpose of the General Agreement on Tariffs and Trade (GATT) was to strengthen intellectual property law around the world and bring U.S. intellectual property law into compliance with other industrialized countries. If the GATT resulted in longer patent protection for a few medicines—all of which already face competition from other therapies—that in my view is a benefit for our society.

Our patients have experienced the direct benefits of the tremendous investments that the pharmaceutical industry has made in research and development. Research-based companies need and deserve the incentives provided by strong intellectual property protection. Please do nothing to weaken them.

Sincerely,

JUDITH SIMPSON,
R.N., Ed. S., President, UPAPH.

FIBROSIS FOUNDATION,
Bethesda, MD, November 8, 1995.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: I understand Senators Pryor and Chafee are attempting to amend the Hatch-Waxman Act to eliminate extensions for existing pharmaceutical patents granted by GATT. I urge you not to vote for that amendment, but instead to protect existing legislation that preserves incentives for research and development.

As President and Chief Executive Officer of the Cystic Fibrosis Foundation, I have personally witnessed the great suffering endured by patients and their families in their fight against cystic fibrosis (CF). There are 30,000 young individuals in this country with CF, a fatal genetic disease; more than 900 live in Illinois. I have also witnessed how, for many patients, modern medicines have brought hope, relief from suffering, and even a return to health—a miracle made possible by biomedical research.

By rewarding ingenuity and encouraging innovation, patent protection makes possible the investment of hundreds of millions of dollars and years of time and effort in medical research, all the while with no guarantee of success. Because of the discoveries born of these investments, the patients we come in contact with every day benefit through saved lives and improved quality of life. Our health care system benefits from a reduction in the overall cost of care.

While we certainly support patient access to lower cost treatments for disease, that short-term benefit pales if it comes at the long-term expense of finding cures to life-threatening illnesses. The current law governing pharmaceutical patents is fair and in the long-term best interest of patients.

On behalf of those patients who still await a cure or effective treatment to alleviate their suffering, I again urge you not to undercut the patent protection that underlies America's best hope for new and better answers to disease.

Sincerely,

ROBERT J. BEALL,
President and Chief Executive Officer.

NATIONAL KIDNEY ASSOCIATION,
Evanston, IL, November 22, 1995.

Hon. CAROL MOSELEY-BRAUN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: I am writing you as both a constituent, and as the President of the National Kidney Cancer Association. Thank you for your recent vote in support of the enforcement of the General Agreement on Tariffs and Trade (GATT) provision regarding drug patents.

Your action will allow significant pharmaceutical research to continue on numerous diseases, including kidney cancer. As you may be aware, kidney cancer afflicts thousands of individuals each year and at the present time, no cure exists for this disease.

Our greatest hope for a cure is innovative pharmaceutical and biotechnology products, derived from private sector efforts. To find this cure, millions of dollars will have to be spent. It is imperative that Congress provide steadfast support for scientific discovery and strong patent protection for new drugs and therapies. My view is that this new GATT law will encourage further investment in research and development, and make new medicines possible. This new law gives hope to millions around the world, including kidney cancer patients, who currently have no options.

I applaud your courage in opposing efforts to weaken the GATT patent provisions. Keep up the important battle to support research and development of new drugs. Thank you for your determination and insightful leadership.

Sincerely,

EUGENE P. SCHONFELD,
President and Chief Executive Officer.

THE NATIONAL ORGANIZATION ON
FETAL ALCOHOL SYNDROME,
Washington, DC, November 8, 1995.

Hon. CAROL MOSELEY-BRAUN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: It has come to my attention that, through an effort by Senator Pryor, Congress is considering changes to existing law that would chip away at patent protections in the United States, and possibly around the world. I ask you to reject that effort.

This nation has sought to protect and foster innovation since its very beginnings, primarily through our system of patent protections. Most recently, as a result of the General Agreements on Tariffs and Trade, the U.S. changed its patent terms to bring them in line with international standards. Yet Congress is now considering weakening that agreement.

As a member of the National Organization on Fetal Alcohol Syndrome, I find that possibility very disturbing. Patients afflicted with disease book to biomedical research, especially research taking place in America's pharmaceutical industry, for new and better treatments to restore them to health. But this country's huge investments in research and development cannot be maintained without the assurance of strong patent protection, not only in the U.S., but also in other markets around the world.

If Congress begins chipping away at patent protection in the U.S., it begins chipping away at the foundations of a system that has made this country Number One in the world in the discovery of new medicines. It also begins to undermine patent protection standards around the world. And it begins the process of deflating the hopes of millions of patients in this country who depend on medical research to find a cure.

Please, cast your vote in favor of innovation, and against any effort to undermine

patent protection in this or any other country around the world.

Sincerely,

PATTI MUNTER,
President.

ALLIANCE FOR AGING RESEARCH
Washington, DC, November 9, 1995.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: It has come to my attention that, in connection with a proposal sponsored by Senator David Pryor, Congress is considering changes to existing patent law that would erode patent protection in the United States. I am pleased to see that you are opposed to that effort.

America has always sought to protect and foster innovation primarily through our system of patent protection and patent-term restoration. Recently in accordance with its multilateral obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights negotiated during the Uruguay Round of GATT, Congress amended the Patent Code to harmonize its provisions with international standards. As a result, patent terms for certain eligible products—in all industries—were extended. Under the Pryor proposal, however, Congress would weaken our implementation of GATT patent provisions.

As the Executive Director of the Alliance for Aging Research, I am concerned by any proposal that would have such as effect. Patent rights are the cornerstone of America's biomedical research enterprise. Patents provide a critical incentive for all companies, particularly pioneer pharmaceutical manufacturers, to conduct ground breaking biomedical research. Patients and their physicians depend upon access to the fruits of biomedical research—access which can only occur if there are adequate incentives for the research to be conducted in the first place. Congress cannot expect the private sector to continue making high-risk investments in research and development if there is no assurance of strong patient protection (and if there is no assurance that the United States will meet its multilateral obligations to provide such protection).

This is a particularly critical issue for the aging Americans represented by the Alliance. Clearly, the curtailment of biomedical R&D will lead to a downturn in the rate at which biomedical innovations will become available to the public. New incentives for research and innovation such as those provided by GATT must be maintained. Otherwise, Congress will erode the foundations of a system that has made America the leader in the discovery of new medicines.

I thank you for supporting innovation and research for new treatments that will benefit America's elderly.

Best regards,

DANIEL PERRY,
Executive Director.

GATT AND PRESCRIPTION DRUGS

Mr. LEAHY. Mr. President, I have worked for many years with Senator PRYOR on trying to keep prescription drugs affordable for Americans. High prices for prescription drugs force some elderly and low-income Vermonters to choose between buying food or fuel for heat and paying for their medication.

In this continuing effort, I am very pleased to join Senator PRYOR as a cosponsor of S. 1277, the Prescription Drug Equity Act of 1995. This bill corrects a loophole in the GATT Treaty that gives a handful of drug companies as much as a $6 billion windfall at the expense of seniors, the poor and all consumers. This bill would allow generic drug companies to sell some of the world's most frequently prescribed drugs at half the cost that they are available at today.

Here is an opportunity for the Congress to lower out-of-pocket health care costs. It is an opportunity that comes at a time when Congress is discussing multibillion dollar cuts in Medicare and Medicaid that will increase health care costs for seniors and low-income Americans.

Today, seniors who rely on Medicare for their health insurance do not receive assistance for the cost of prescription drugs. Even if a senior also has private health insurance, there is no guarantee that it will cover prescription drug bills. Seniors on fixed incomes depend on money saving generic drugs.

Seniors need the savings on prescription drugs now more than ever. So do the over 40 million Americans with no health insurance whatsoever.

Prescription drugs and the research devoted to developing new drugs are vital to meet the health care needs of many Americans. While the manufacturers that take risks and invest in the development of new drugs have a right to a return on their research investment, we must not allow prohibitive costs to jeopardize consumer access to these drugs. There must be a balance.

If the GATT loophole is closed, Medicaid will save $150 million over 5 years and consumers will save up to $2 billion. In my home State of Vermont alone, the savings in Medicaid are estimated to be almost $1 million. And, Vermont consumers are expected to save as much as $6.8 million in prescription drug costs.

Opponents of the Pryor legislation argue that it will prevent drug companies from conducting research and development on new drugs. Under the Pryor legislation, however, these companies still would have had more than the full 17 year protection they expected to have when they introduced their products, to gain a return on their research investment. In addition, drug companies will continue to receive royalties from the generic companies who market competing prescription drug products.

Drug firms pocket almost $6 million each day that the GATT loophole is in effect. These companies will go to no end to protect their windfall. They have launched a multimillion dollar effort to lobby Congress. They even went as far as misrepresenting a statement by former Surgeon General, C. Everett Koop, by portraying him as a strong supporter of their billion dollar windfall.

We in Congress have a responsibility to protect consumers against these drug company giants. I urge my colleagues to support the Prescription Drug Equity Act of 1995 and pass this legislation as soon as possible.

Mr. GRASSLEY. Mr. President, I would like to say a few words about the amendment offered by my colleague, for though it is well intentioned, it does have important potential adverse effects on our international trade agreements.

This legislation would deny innovator pharmaceutical products the full statutory term of patent protection that was provided under GATT and the Uruguay Round Agreements Act [URAA]. There is a requirement in the GATT Intellectual Property Agreement [TRIPS], found in article 70:2, that WTO members provide TRIPS level patent protection for existing subject matter on the date of application of the agreement for the country in question. This requirement will greatly benefit U.S. industries across a broad range of intellectual property elements; not just those industries concerned about pharmaceutical patents. It is in the U.S. interest that countries with weak patent protection provide the shortest possible transition periods. This is the clear objective of the TRIPS agreement and, in particular, article 70:2.

To meet this key objective of the TRIPS agreement, I believe the FDA interpretation of the Hatch/Waxman Act must prevail. Article 70:2 was specifically inserted in the TRIPS agreement to prevent WTO members from delaying the application of the stronger protection found in the TRIPS agreement to existing patents, most of which we can safely say will be held by U.S. rightholders.

I strongly believe that U.S. commercial interests in WTO countries that currently provide weak protection will be dealt a severe blow should this amendment pass. We need look no further than Argentina, whose patent protection laws are bad and getting worse, as an example of what might happen if the United States pursues a policy that minimizes GATT mandated improvements in patent rights. And there are other countries whose patent regimes offer no protection to the makers of patented pharmaceutical products, costing billions of dollars that would otherwise go into research for new breakthrough drugs.

I should also point out that the courts have had a chance to render judgment on this issue, and they have upheld the current interpretation of the Hatch-Waxman Act that this amendment would overturn. So I urge my colleagues to vote against this amendment and for the motion to send this to the Judiciary Committee.

Mr. BYRD. Mr. President, the Pryor amendment would correct an unintended loophole created in the legislation implementing the General Agreement on Tariffs and Trade [GATT]. This loophole will cost consumers billions and give a windfall profit to certain drug companies. Congress must take the responsible course of action and correct its mistake by passing the Pryor amendment. Omissions and errors are more likely to happen when large, complex bills are taken up under

limited time constraints. Such is the case with GATT, which was considered under fast track procedure and was rushed through Congress. I believe this is an ill-advised way to conduct Senate business. It is the responsibility of the Congress to correct its unintended oversights and omissions.

How did this loophole come about? When Congress enacted the Uruguay Round Agreements Act [URAA], the legislation implementing the General Agreement on Tariffs and Trade [GATT], which I opposed, it extended all patent terms from 17 years from date of approval to 20 years from the filing date. In addition, the legislation allowed generic companies to market their products as of the 17 year expiration date if they had made a substantial investment and would pay a royalty to the patent holder. The carefully constructed transition rules were meant to apply to all industries. However, because conforming language to the Federal Food, Drug, and Cosmetic Act was inadvertently omitted, this provision does not apply to the generic pharmaceutical industry. The drug industry is the only industry that is shielded from generic competition under GATT during the extended patent term.

The U.S. negotiators have indicated that it was not their intent to exclude the pharmaceutical industry from this provision, and that the omission of the conforming language was an oversight. According to U.S. Trade Representative Mickey Kantor in a letter to Senator CHAFEE,

> This provision—the transition rules—was written neutrally because it was intended to apply to all types of patentable subject matter, including pharmaceutical products. Conforming amendments should have been made to the Federal Food, Drug, and Cosmetic Act and Section 271 of the Patent Act, but were inadvertently overlooked.

This oversight means consumers will pay more for their drugs than would otherwise have been the case. If generic drug companies cannot bring their versions of drugs to market under the transition rules, consumers will be forced to pay more for their prescriptions. Nationwide, it is estimated this may cost consumers $2.5 billion. West Virginians and the West Virginia State government will pay an additional $43 million in drug costs. Those who will likely be impacted greatly by this Congressional oversight are senior citizens. Although seniors comprise 12 percent of the population, they use one third of prescription drugs. At the same time, seniors live on fixed incomes and oftentimes experience difficulty in affording their prescriptions. it is outrageous that Congress would worsen their situation by failing to enact legislation to correct this Congressional oversight.

Mr. President, this situation can easily be remedied by adopting the Pryor amendment. I urge my colleagues to support the Pryor amendment, and I would like to be added as a cosponsor of this amendment.

Mr. PELL. Mr. President, today the Senate considered an amendment authored by my friends and colleagues, Senators PRYOR and CHAFEE meant to clarify confusion that has resulted from the implementing legislation Congress wrote following approval of the GATT Treaty last year. Specifically, the issue involves when the patent terms on domestic pharmaceutical products expire and when generic companies can begin to market copies of those products to the general public.

Since this issue has been brought to public attention, many contradictory charges have been levelled which have served to create a sense of confusion over whether or not certain entities are receiving unfair advantage over the other. Unclear are such issues as: What was the intent of our GATT negotiators, and did this intent change as the negotiations went on? What was the intent of Congress on this matter or, as the Federal courts have found, was there no intent expressed at all? How do our trading partners feel about our addressing this issue now, long after we approved the implementing legislation approving GATT? Who benefits and is that benefit justified or fair?

The answers to these questions are not clear at present. And given the enormous stakes on both sides, I find that reaching a satisfactory conclusion difficult given the incomplete record. Moreover, this is not an abstract policy issue for me as a Senator from the State of Rhode Island, where Glaxo-Wellcome, one of the pharmaceutical companies with much at stake here, has a manufacturing facility. Prior to making a decision that could affect so many Rhode Islanders, I feel that a clear airing of the ramifications of this proposal is required. Given the assurances that these hearings will occur within 120 days, I feel confident that this issue will be addressed and when it does, we will have an adequate record on which to base our decisions.

I do wish to note that by supporting the effort to refer this to the Judiciary Committee for hearings, I am not stating my opposition to the proposal per se. I will wait to come to the conclusion once the hearings have been completed and when the full weight of the proposal is more clear.

Mr. COHEN. Mr. President, I rise to support the Pryor generic drug amendment which will correct an oversight in the General Agreement on Tariffs and Trade [GATT] implementing legislation that has unintentionally postponed the date at which certain generic prescription drugs can enter the market. While this delay only affects a handful of drug products, consumers who take these drugs are paying a big price for this technical mistake.

This amendment would clarify the intent of transition rules in the trade bill allowing manufacturers who had made substantial investment in product development, based on pre-GATT patent expiration dates, to go to market as planned once they pay the patent-holder the required royalty. This correction is needed because certain provisions in the Hatch/Waxman Act, dealing with drug development, have had the unintended consequence of prohibiting generic companies from using the GATT transition rules. Pharmaceuticals are the only industry unable to use these rules.

Under GATT, new pharmaceuticals are given patent protection for the longer of 20 years from the filing date or 17 years from the patent issuance. Transition rules were enacted to provide fairness to all industries and parties—patentee and competitor—during transition to the new patent-term law. We must correct this rather technical error in the trade bill to ensure these rules are available to all industries.

Both Mickey Kantor, U.S. Trade Representative, and David Kessler, FDA Commissioner, agree with this interpretation and believe a legislative fix is needed to allow generic companies to go forward. This amendment is tightly constructed and would have no impact on other trade issues included in the GATT.

While I am aware that this amendment will dip into the profits of a few pioneer drug companies, I believe this error has already given them an unintended windfall. If left uncorrected, it is estimated that the delay of several generic medications could cost consumers and government health programs nearly $2 billion.

We have a responsibility to pass this amendment and help consumers gain access to more affordable medications. For millions of Americans, especially senior citizens, prescription drugs represent their largest out-of-pocket health expense. Many life-sustaining drugs are already out of their reach. We can not let the desire of a few drug companies to let this error go uncorrected place an even greater burden on consumers who struggle daily to pay for their prescription drugs.

Mr. SPECTER. Mr. President, I support the intent of Senator PRYOR to remedy what was apparently an unintended omission when the Senate ratified the implementing legislation for the General Agreement on Tariffs and Trade (GATT) in the 103d Congress. However, I remain concerned with ambiguities in the Pryor amendment with respect to the definition of substantial investment.

When the GATT implementing legislation was approved last year, it contained a provision harmonizing U.S. patent law with the rest of the world by changing patent terms to 20 years from the initial patent application rather than 17 years after granting of the patent. In order to be fair to existing patent holders, the legislation gave them the option of utilizing the longer of the pre-GATT and post-GATT patent terms.

However, because the legislation affected many generic manufacturers who had been preparing to go to market with competing products upon the

expiration of the original patent term, Congress agreed to allow generic manufacturers who had already made a substantial investment in that product to utilize the original patent expiration date and commence marketing, upon paying of a royalty to the patentee.

Some have argued that the courts can interpret the definition of substantial investment, and consequently, there is no need for legislative guidance on that definition. I disagree. By retaining this legislative ambiguity, we are ceding the legislative role to the courts. We are also creating considerable costly litigation because of this ambiguity which should be made clear in the statute. These are resources which could be better devoted to developing new products and making them available to the public.

I have discussed with Senator PRYOR my willingness to work with him to correct this ambiguity and then accomplish his intended remedy.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I take a tremendous interest in this subject, in part because I chair the Judiciary Committee, which handles all patents, copyrights and trademark legislation and problems. Since the amendment would made changes in the patent code, the matter would come before the Judiciary Committee as it has in the past.

In addition, I want to point out that my colleague from Arkansas was mistaken when he said the Judiciary Committee has never handled anything regarding FDA matters. In fact, I think he said, if I am correct, that the Judiciary Committee never looked at the Food, Drug and Cosmetic Act.

Perhaps he was not aware that the 1962 Drug Amendments, which established the safety and efficacy standards for drugs reviewed by the FDA, were written in the Judiciary Committee.

This is a result of the Kefauver hearings, which led to adoption of new amendments providing the efficacy standards which are often heralded as the model standards for the world.

If there is any one thing you can point to at the FDA that protects human beings and makes sure that the medical products Americans use are safe and efficacious, it comes from work done by the Judiciary Committee. But that is not the point.

Before I go to the broader policy issue, which is much more important than I think my colleagues would acknowledge, let me just call their attention to other Judiciary Committee work on the GATT intellectual property provisions. I am referring to a joint hearing in the 103d Congress before the House Judiciary Subcommittee on Intellectual Property and Judicial Administration and the Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks.

Pharmaceutical industry representatives, including those representing biotech organizations, and academic researchers appeared before these two combined committees.

I do not want to take too long on this, but let me just take a moment or two to read from this very important joint hearing transcript.

Representative William Hughes, who then was the chairman of the House Subcommittee said to Mr. Bruce Lehman, Commissioner of Patents and Trademarks:

> There have been some concerns raised particularly by the biotech industry, that grants of patents will be delayed because of unreasonable requests from the PTO for human trials which, as you well know, could take years for some biotechnology products to prove utility, a requirement of patentability. Is that a legitimate concern on their part?

PTO Commissioner Lehman said:

> Well, to the extent that that is a legitimate concern, Mr. Chairman, I think that is addressed in the Patents Term Restoration and Drug Price Competition Act that extends patent terms specifically to deal with regulatory delay. Perhaps that act should be adjusted if it is not addressing the concerns of industry.

By the way, the Drug Price Competition and Patent Term Restoration Act happens to be the bill that Representative HENRY WAXMAN and I wrote back in 1984, which is considered to be one of the finest pieces of consumer legislation in the last 30 years, if not in the entire history of the country.

I am very proud of that law.

It is one of the reasons why I am saying this is not a question of whether somebody is going to get a windfall profit or not.

This issue has very broad policy considerations. It is not just something that can be couched in terms of ''gouging the consumers,'' because there are two sides of this issue.

The Drug Price Competition and Patent Term Restoration Act, the Hatch–Waxman bill, brought the two sides together.

I know it. It was negotiated in my office over a 2-week period, 18 hours a day. One reason I remember it so well is because I had a root canal during that time, and by the time we got near the end I threatened to kill everybody in the room if they did get together and get it done.

We finally did.

It was a tense time. It was a tough time. When we got it done, almost everybody agreed that this is one of the finest pieces of consumer legislation ever.

It has saved an average of $1 billion a year to consumers every year since its enactment in 1984, as we predicted it would.

So, naturally, I am concerned when I hear that that act is going to be amended in an unwise fashion.

If the USA, whose officials have asked heads of states all over the world to live up to these hard-won international intellectual property agreements, changes this major treaty right off the bat by reducing patent terms just because we think some companies may benefit, then all the intellectual property work we have done over all these years is going to go down the drain.

But let me talk again about the Hatch–Waxman bill.

There were two sides to it. There were those who were spending billions of critical dollars in research that is going to help bring down health care costs. These manufacturers are putting their money where their mouths are in order to find these breakthrough drugs that will reduce the costs of medicine over the long run and help to relieve some human misery.

But one of the problems these research-based companies face is that the FDA approval process has taken so long. The agency is supposed to approve drugs in 180 days, according to the statute.

That has not happened in fact. It has taken so long that the patent terms are eaten up by the delays.

So, there were those on the side of the research companies who said—and I was one of them—that what we must do is restore some of the patent term lost through unnecessary regulatory delays. The other side consisted of those representing the interests of the generic drug industry.

I understand that those who support the Pryor amendment do so because they are worried about consumer costs. What their arguments neglect however, are two simple questions:

What are consumers going to consume if we do not put money into research?

And what will consumers consume if there are not the incentives to produce the products they need?

The thing that has made the United States the greatest research country in the world is that we protect patents as a property right in the Constitution itself.

This, again, is another Judiciary Committee concern for those who do not seem to appreciate that point.

There are those on the consumer side who legitimately asked why it takes so long to get generic drugs approved after the innovator drugs come off patent. They suggested the availability of an abbreviated new drug application so they did not have to go through the whole safety and efficacy process.

It would have taken them 2 to 3 years to take a product like Zantac—which I mention since that product has been attacked here—and duplicate it so that they can reduce the price for the benefit of consumers.

So what did we do? We worked hard to enable those generic companies to be able to do what would be called infringement in any other industry.

As a consequence of this change, these generic manufacturing companies were able to borrow from the work of the research-based companies who are spending as much as half a billion dollars to produce one marketable drug, and produce a bioequivalent of a

drug such as Zantac that becomes effective the day Zantac comes off the patent.

Or a better illustration might be Valium. When Valium's patent expired, the Hatch–Waxman bill provided that all kinds of generic companies were able to produce their version of Valium that very day, rather than be delayed the 2 or 3 years through the whole process again.

That is important, because what we did is bring both sides together to create the generic industry as we know it today. In fact, I am proud to have been called on occasion ''the father of the generic drug industry.''

So I have a tremendous interest in making sure that the generic industry is solid and producing lower-cost drugs.

But I also have a tremendous interest in seeing that research companies are given fair deals on their patents.

Now, when we came up with the Hatch–Waxman bill we knew there would be winners and losers.

Both sides knew this.

They were willing to make trade-offs in order to accomplish a greater goal.

We knew there were winners and losers with the Waxman-Hatch bill, and we also knew that when GATT was finalized there would be winners and losers.

Now, I think Dr. Koop's position has been misrepresented by the other side, some of whom do not think he understands what really went on. There seems to be some confusion about Dr. Koop, our former Surgeon General, who is probably the leading doctor in the history of this country.

I think Dr. Koop has a pretty good reputation in the field of public health. He was a most outstanding Surgeon General. I did not always agree with him, but I always respect his views.

Dr. Koop wrote a letter to clarify that those on the other side could not misrepresent his position any more.

That letter is printed in today's issue of Roll Call. It makes, I believe, an eloquent case against the Pryor amendment.

I will submit for my colleagues' consideration this letter to Morton Kondracke, Executive Editor of Roll Call, from Dr. C. Everett Koop, former Surgeon General of the United States. I ask unanimous consent that the full letter be printed in the RECORD at this point.

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

KOOP ON PHARMACEUTICALS

To the Editor:

In your Food & Drug Policy Briefing (Oct. 9), an article appeared concerning patent protection under the General Agreement on Tariffs and Trade. I am of the firm belief that any action on the part of the Senate to weaken the hard-fought patent protections of GATT would imperil the future of intellectual property rights and undermine the research activities of pioneering pharmaceutical companies.

The right to claim ideas as property allows innovators to invest their time and money bringing those ides to fruition. It is the basis of our patent system that allowed American ingenuity to prosper throughout the Industrial Age. Today, we are at the dawn of an Information Age and now, more than ever, the rights of intellectual property holders must be protected.

Consider the enormous investment in time, money, and brainpower required to bring a single new medicine to patients: 12 years and more than $350 million is the average investment. Only 20 percent of new compounds tested in a laboratory ever find their way onto pharmacy shelves. Only a third of those ever earns a return on the colossal investment made to discover it.

Though risky and expensive, this process works. The U.S. is the world leader in the development of innovative new medicines. Proceeds from the sales of these medicines support the work and research invested in new successful drugs, as well as the thousands of drugs that never make it out of the lab.

Patent protection makes that investment in research worthwhile—and possible. Recently, patent protection around the world was strengthened and harmonized by GATT, which required changes that equalized intellectual property protection in all participating countries. These changes are important to encourage the risky, expensive research necessary to provide new medicines to fulfill unmet medical needs.

Now, some generic drug companies are challenging GATT's advance in intellectual property protection. They are urging Congress to amend the 1984 Hatch-Waxman Act to give them an advantage under GATT that no other industry enjoys.

A key provision of the Hatch-Waxman Act gives generic drug companies a jump-start on marketing by allowing them to use a patented product for development and testing before the patent expires. This special exemption from patent law is not allowed for any other industry.

In return for these special benefits, the Hatch-Waxman Act requires generic drug companies to wait until the expiration of the research companies' patents before they can begin marketing their drugs. Now, the generic drug industry is asking Congress to give it a special exemption from that restriction as well.

In my opinion, that would be unwise. Treatment discovery has already slowed; we should reverse that process, not ensure it.

Generic drugs play an important role in helping lower the cost of medicines. But it is the pharmaceutical research industry that discovers and develops those medicines in the first place, investing billions of dollars in research and development that can span decades without any guarantee of success—an investment made possible by our system of patent protection.

Mr. HATCH. Preserve patent protection and you preserve the opportunity for the discovery of future cures and treatment for disease. Undercut that protection and you undercut America's hope for new and better answers to our health care needs.

It is for this reason that I must rise tonight in opposition to the amendment offered by Senators PRYOR, CHAFEE, and BROWN.

Whenever Senator PRYOR and I join in debate over pharmaceutical issues, I am sure some of our colleagues want to say, ''Here we go again.''

Well, here we go again.

Mr. President, I oppose this amendment because the current statutory framework, as interpreted by several recent court decisions, reflects sound policy and should not be disturbed.

I am glad we are having this debate today, as I welcome the opportunity to put the issue in better perspective.

This is a debate that cuts across party lines.

Reasonable people may disagree about the best course of action to take on this amendment, but it is still the same debate: Who is going to benefit, the research companies or the generic companies?

The generics have benefited greatly from what I have personally done for them, and so have the research companies.

But our overriding goal here must be to make sure we keep in place the incentives necessary for America to continue as the world leader in developing innovative medical technologies that can be delivered at competitive prices. The bottom line is that the Pryor amendment would undermine that goal.

At the end of this debate, I am hopeful that my colleagues will share my strong conviction that two relevant laws—the Drug Price Competition and Patent Term Restoration Act, sometimes known as Waxman-Hatch or Hatch-Waxman and the GATT Treaty—act together to advance important public health and trade policies.

I believe it is clear that the Senate must reject the Pryor amendment if we are to maintain that balance.

Let me summarize my three basic objections to this amendment:

First, many experts in international trade believe that the adoption of this amendment would send precisely the wrong signal to our trading partners, some of whom have had notorious track records of being patent-unfriendly.

A major gain we made with GATT was to win international harmonization with a 2-year patent term. Adoption of the Pryor amendment could cause backsliding on the part of foreign countries required to implement and enforce their obligations under GATT. Let us not steal defeat from the jaws of victory.

Second, the Waxman-Hatch Act achieved a careful balance between the generic and innovator sectors of the pharmaceutical industry.

The proponents of the Pryor amendment urge that only one industry is singled out for different treatment under the GATT implementing legislation.

What is absent from that line of argument is the fact that only one industry, the generic drug industry, is permitted by current law to engage in activities that in any other industry would constitute patent infringement, as I have said before.

A recent Federal district court reviewed the relevant provisions of law and concluded, ''This was no more a windfall to the * * * [pioneer firms] * * * than the windfall which benefited many patent holders when the seventeen year term of patents was extended to twenty years.''

Third, if the Pryor amendment is adopted, it may run afoul of the takings clause of the fifth amendment to the Constitution. Patents are recognized and protected by American courts and by our Constitution as property.

By repealing patent extensions granted under the GATT legislation and reducing vested patent terms, the Pryor amendment could trigger the guarantee that affected property holders receive just compensation.

I ask unanimous consent that a copy of an October 24 ''Dear Colleague'' letter signed by a bipartisan group of 11 Senators, and a December 6 ''Dear Colleague'' letter discussing these issues be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, DC, October 24, 1995.

DEAR COLLEAGUE: We are writing to indicate our bipartisan opposition to an amendment which may be offered during Senate consideration of S. 1357, the Balanced Budget Reconciliation Act of 1995. That amendment would deny U.S. innovator pharmaceutical manufacturers international patent protections provided under key provisions of the GATT implementing legislation.

The Uruguay Round Agreements Act (URAA) implemented the United States' obligations under GATT by providing that the term of any patent in force on June 8, 1995, be the greater of 20 years from the applicable filing date or 17 years from the date of grant. These critically-important patent provisions benefit all industries and all patent holders.

Nevertheless, a handful of generic drug companies have urged Congress to rewrite the law in effect to eliminate the 20-year term for certain prescription drug patents by allowing generic companies to sidestep existing statutory provisions under the Drug Price Competition and Patent Term Restoration Act of 1984 (''Hatch-Waxman'') that preclude the generic from entering the market until the full term of the pioneer's patent has expired.

Repealing this provision of the URAA would: weaken the U.S. position in negotiating and enforcing strong international patent protection which was a major achievement of the GATT; have a chilling effect on biomedical research in the pharmaceutical industry; and be subject to legal challenge as an unconstitutional taking of property.

It is inappropriate to consider a change of this magnitude in the context of budget reconciliation. Both Hatch-Waxman and the Uruguay Round were hard-won compromises which were negotiated very carefully. The amendment has both trade and intellectual property implications, as well as substantial implications for food and drug law. Furthermore, this issue is now before the Federal courts in ongoing litigation and any action at this time would be premature.

For these reasons, as discussed in detail in the attachments, we urge you to oppose consideration of the GATT patent amendment during debate on budget reconciliation.

Sincerely,

Christopher J. Dodd; Orrin G. Hatch; Joseph I. Lieberman; Alfonse M. D'Amato; Charles E. Gressley; Lauch Faircloth; Mike DeWine; Carol Mosely-Braun; Ernest F. Hollings; Jesse Helms; Dan Coats.

THE GATT AMENDMENT WOULD UNDERMINE AMERICA'S TRADE POSITION

Intellectual property rights were addressed on a multilateral trade basis for the first time in the history of GATT during the Uruguay Round. As a result of hard-fought compromises, worldwide standards for protecting and enforcing intellectual property rights were established, and intellectual property protection was significantly improved.

The decision to tackle patent rights during the Uruguay Round, despite the reluctance of some developing countries, reflects the complexity of international trade and the international significance of patent rights.

As the principal source of inventive activity, the U.S. stands to gain substantially from the Agreement on Trade-Related Aspects of Intellectual Property (TRIPs) improvements in patent protection worldwide. In countries that previously provided limited patent protection, a minimum 20-year patent term must be granted immediately upon their acceptance of the TRIPs obligations. Enhanced patent protection overseas will have a significant impact on the commercial interests of the United States and the resulting economic gains and job creation in the United States will be considerable.

The Uruguay Round agreement was a landmark achievement, but the real test comes when countries implement their multilateral obligations under GATT. Since the U.S. insisted on the inclusion of enhanced patent protections in the Uruguay Round agreements and historically has been the leading international advocate for broadening patent rights, it is essential that the U.S. be a world leader on GATT implementation.

Enhanced patent protection will be diminished abroad if the United States itself violates the patent term embodied in TRIPs. It is almost certain that such an action would provide foreign-based pirates and patent infringers with potent ammunition in seeking to have their domestic governments devise measures that are inconsistent with TRIPs—thereby denying U.S. patent holders their rights secured by TRIPs.

A report just released by two American Enterprise Institute (AEI) analysts concludes that such ''weaken[ing] [of] the patent system during this critical period of implementing the TRIPs agreement could well give developing countries a pretext for backing away from their GATT commitments to strengthen the protection of intellectual property.'' They point out several developing nations, including India, Singapore, and Thailand, which are already attempting ''to dilute and evade'' the patent protection commitments they accepted during the Uruguay Round.

It is clear that, in this patent-unfriendly context, the proposed amendment would be interpreted internationally as encouraging a minimalist's interpretation of GATT's improvements in patent protection. As the AEI analysts conclude, America's trading partners will construe the amendment as a green light to act inconsistently with GATT: ''Thus, any signal that the United States itself is contemplating weakening its TRIPs obligations will undoubtedly be seized upon by these countries as a pretext to resist pressure to put in place strong intellectual property protections.'' Having redefined patent terms domestically in order to secure enhanced patent rights overseas, it would be imprudent for this Congress to send any such signal.

The international trade ramifications extend beyond questions of intellectual property protection. The positions advocated by proponents of this amendment ''are likely to be turned against the United States in future trade negotiations,'' according to the AEI analysts. The AEI report concludes that arguments advanced in support of the amendment ''will come to haunt U.S. negotiators'' and ''play rights into the hands of developing countries who still maintain and defend compulsory licensing.''

For all of these reasons, the AEI analysts conclude that USTR Kantor's contention that the amendment would not undermine America's position in international trade negotiations ''would seem to come under the heading of '' 'whistling in the wind.' ''

Significantly, USTR Kantor's position has been strongly countered by his predecessors, former-Ambassadors Clayton Yeutter and Bill Brock. Ambassador Brock asserts that nations which in the past have denied American investors patent protection ''will see this retreat on our part as a ready excuse to implement their own minimalist versions of intellectual property protection.'' Thus, Ambassador Brock concludes, we would be unable ''to force other nations to adhere to the TRIPs agreement if we set this unfortunate precedent.''

Similarly, the Emergency Committee for American Trade (ECAT) concludes, ''A U.S. retreat from its own commitments to increased intellectual property protection for all patented products would be a destructive precedent that could lead to an unraveling of hard-won gains.''

The European Community (EC) has expressed similar ''serious concerns'' about any such precedent. The Vice-President of the European Commission believes the amendment ''would contradict our mutual aim of providing a reasonably high and secure protection for the huge investments made by EC and US research-based pharmaceutical companies'' and ''send a negative and highly visible signal to those numerous countries which are still in the process of preparing new legislation on the protection of pharmaceutical inventions.''

As America's trading partners implement GATT, it is vital that the U.S. be in a position to demand that they adopt legislation consistent with the requirements embodied in the Uruguay Round agreements. In order to do so, we cannot be childed into adopting an ill-considered amendment that vitiates patent protection for American patent holders.

THE GATT PATENT AMENDMENT WILL CHILL R&D IN RESEARCH-INTENSIVE INDUSTRIES

Intellectual property rights are critical to all American industries and should not be lightly disregarded. They are particularly important to the pharmaceutical industry because they fuel the engine that drives the biomedical research enterprise and result in numerous therapeutic advances.

An amendment that eliminates the GATT patent benefits for pharmaceutical products would undermine a critically important incentive for research and development.

As with other research-incentive industries in the United States, the pioneer pharmaceutical industry has benefited significantly from America's patent system. Due to the high costs and significant risks associated with developing and marketing prescription drugs, patents have allowed pharmaceutical manufacturers to attract the risk capital necessary to develop and clinically test innovative new therapies.

The results of such ground breaking biomedical research flows directly to patients who have access to drugs for complex and life-threatening diseases which are developed only by pioneer pharmaceutical companies. We should continue to reward their ingenuity and encourage their innovation.

If Congress encourages a curtailment of biomedical R&D by limiting incentives, it inevitably will cause a downturn in the rate at which biomedical inventions will become available to the public. For this reason, an array of patient and research groups—including the American Association for Cancer Research, the Alliance for Aging Research, the Cystic Fibrosis Foundation, the Allergy and

Asthma Network/Mothers of Asthmatics, and the Autism Society—oppose the amendment.

THE GATT PATENT AMENDMENT COULD EFFECT AN UNCONSTITUTIONAL TAKING OF PROPERTY

Legal analysis supports the view that the proposed GATT amendment ''would clearly deprive the patent holders of their property rights. . . .'' Patents have traditionally been recognized and protected by American courts as property.

Based upon existing precedents, it can be argued that any legislation affecting either the exclusive use of a product to which a patent holder is entitled, or the time during which the patent holder is entitled to that exclusive use, affects core elements of the property right represented by a patent.

By repealing patent extensions granted under the URAA, and reducing vested patent terms to which existing patent holders are currently entitled, this amendment could trigger the Fifth Amendment guarantee that the property holders receive just compensation.

In this era of fiscal constraints, and particularly in the context of the budget reconciliation debate, it would be ironic indeed for Congress to impose such financial obligations on an already-strained federal budget. We should carefully consider whether the amendment would have such an effect.

IT IS INAPPROPRIATE TO CONSIDER THE GATT PATENT AMENDMENT DURING RECONCILIATION

Regardless of one's views about its merits, it is clear that a GATT patent amendment would be inappropriate at this point.

The proposed amendment is not a technical amendment as it has been characterized by its proponents, who suggest they are simply trying to correct a ''simple mistake in legislative drafting'' that resulted in a ''legal loophole'' in the URAA. The facts are quite different.

The amendment would result in substantial changes in two statutes—the URAA and the 1984 Hatch-Waxman Act. The Hatch-Waxman Act represents a careful balance between the interests of innovator manufacturers and generic drug companies. It has worked well for over 10 years and should not be amended lightly. Even minor changes to Hatch-Waxman could have profound effects on all segments of the pharmaceutical industry.

Under Hatch-Waxman, generic drug companies are already given significant advantages. They are allowed to begin development of their generic drugs while the pioneer's patent remains in effect, and they can rely on the safety and efficacy data developed by the innovator. The proposed GATT amendment would negate a complementary provision in the Hatch-Waxman Act; that provision requires generic companies to respect the pioneer's full patent term, and thereby upset the balance codified in that statute.

The dramatic changes that would result from the proposed amendment would occur without the benefit of prior congressional consideration. The proposed amendment would have a direct and significant effect on patent rights, which fall squarely within the jurisdiction of the Judiciary Committee.

We should not rush to legislate in this area before all Committees of relevant jurisdiction have had a reasonable opportunity to hold hearings and give careful consideration to all of the proposed amendment's potential ramifications.

Finally, questions relating to implementation of the URAA are currently in litigation. One lawsuit addressing the precise issue covered by the proposed amendment has been expedited for consideration by the U.S. Court of Appeals for the Federal Circuit (CAFC). The CAFC heard arguments in that case just two weeks ago. An amendment on this issue would be premature at this time.

U.S. SENATE,
Washington, DC, December 6, 1995.

DEAR COLLEAGUE: We are writing to urge your opposition to the Pryor amendment to H.R. 1833, the partial birth abortion ban bill. This amendment would deny the benefits of GATT to U.S. innovator pharmaceutical companies.

The Pryor amendment is bad policy. It undermines the purposes of GATT, and it fundamentally upsets the delicate balance we forged in 1984 upon adoption of the Drug Price Competition and Patent Term Restoration Act (''Hatch-Waxman''). That Act was designed to ensure that innovator companies continue to have sufficient incentive to invest the billions of dollars necessary to produce new medicines while at the same time allowing generic companies a quick and inexpensive way to get their versions of the drugs on the market after the patent has expired.

The Hatch-Waxman Act also gave generic drug companies an advantage possessed by no other industry in either the United States or the industrialized world. It specifically repealed those provisions of patent and case law that forbade any testing, plant construction, or investment in something which is still under patent, thus enabling the generic industry to conduct its bioequivalency tests and even produce a drug before the patent expires. It is generally agreed that this reduces the effective life of a drug patent about three years. This is in addition to the fact that Hatch-Waxman allows generics to avoid the lengthy, multiyear approval process by using the safety and efficacy testing data of the innovator company. This is estimated to save the generics between $350 million and $500 million per drug.

We are enclosing a previous dear colleague letter which provides you with information on this subject, as well as a letter to the editor that will appear in tomorrow's Roll Call from Dr. C. Everett Koop, the former Surgeon General of the United States. We urge you to read this letter carefully as it eloquently and persuasively argues our case. We are also including a collection of statements from various patient groups who also oppose the Pryor amendment because these individuals know first-hand that intellectual property is the key to new discoveries which mean life or death for millions of people.

We urge you to join us in opposing the Pryor amendment.

Sincerely,

CHRISTOPHER J. DODD,
United States Senator.
ORRIN G. HATCH,
United States Senator.

November 30, 1995.

MR. MORTON KONDRACKE,
Executive Editor,
Roll Call, Washington, DC.

In your special supplement on the FDA (October 9, 1995), an article appeared concerning patent protection under the General Agreement on Tariffs and Trade (GATT). I am of the firm belief that any action on the part of the U.S. Senate to weaken the hard-fought patent protections of the GATT would imperil the future of intellectual property rights and undermine the research activities of pioneering pharmaceutical companies.

A little-known revolution has taken place in my lifetime. When I started practicing medicine, only a fraction of the drugs that we now take for granted existed. Over the years, I have witnessed great suffering endured by patients and their families that, just a few years later, could have been eased because of the advent of the latest ''miracle drug.'' These breakthrough treatments have brought hope and, in many cases, renewed health to thousands of patients. They are the product of an increasingly important concept: the sanctity of intellectual property.

The right to claim ideas as property allows innovators to invest their time and money bringing those ideas to fruition. it is the basis of our patent system that allowed American ingenuity to prosper throughout the Industrial Age. Today, we are at the dawn of an Information Age and now, more than ever, the rights of intellectual property holders must be protected.

Consider the enormous investment in time, money, and brain power required to bring a single new medicine to patients: 12 years and more than $350 million is the average investment. Only 20% of new compounds tested in a laboratory ever find their way onto pharmacy shelves. Only a third of those ever earns a return on the colossal investment made to discover it.

Though risky and expensive, this process works. the U.S. is the world leader in the development of innovative new medicines. proceeds from the sales of these medicines support the work and research invested in new successful drugs, as well as the thousands of drugs that never make it out of the lab.

Patent protection makes that investment in research worthwhile—and possible. Recently, patent protection around the world was strengthened and harmonized by the GATT, which required changes that equalized intellectual property protection in all participating countries. These changes are important to encourage the risky, expensive research necessary to provide new medicines to fulfill unmet medical needs.

Now, some generic drug companies are challenging the GATT's advance in intellectual property protection. They are urging Congress to amend the 1984 Hatch-Waxman Act to give them an advantage under the GATT that no other industry enjoys.

A key provision of the Hatch-Waxman Act gives generic drug companies a jump start on marketing by allowing them to use a patented product for development and testing before the patent expires. This special exemption from patent law is not allowed for any other industry. For example, a television manufacturer who wants to market or use its own version of a patented component must wait until the patent expires; otherwise, it risks liability for patent infringement.

in return for these special benefits, the Hatch-Waxman Act requires generic drug companies to wait until the expiration of the research companies' patents before they can begin marketing their drugs. Now, the generic drug industry is asking Congress to give it a special exemption from that restriction as well.

In my opinion, that would be unwise. Treatment discovery has already slowed; we should reverse that process, not ensure it.

While the generic drug industry continues to prosper as a result of the benefits received in the 1984 Act, medical research has continued to become more complex, more costly, and more time consuming, further limiting the effective market life for patented products.

Generic drugs play an important role in helping lower the cost of medicines. But it is the pharmaceutical research industry that discovers and develops those medicines in the first place, investing billions of dollars in research and development that can span decades without any guarantee of success—an investment made possible by our system of patent protection. Preserve protection and

you preserve the opportunity for the discovery of future cures and treatments for disease. undercut that protection, and you undercut America's hope for new and better answers to our health care needs.

Sincerely yours,

C. EVERETT KOOP, M.D.

PATIENT ADVOCATES OPPOSE EFFORTS TO WEAKEN STRONG PATENT PROTECTION

''At a time when health care delivery, research and development are evolving faster than anyone can accurately monitor, Senator Pryor's efforts to lead Congress down a road that chips away at patent protections for U.S. pharmaceutical products will dig a health care grave for Americans.''—Nancy Sander, President, Allergy and Asthma Network/Mothers of Asthmatics, Inc.

''Congress cannot expect the private sector to continue making high-risk investments in research and development if there is no assurance of strong patent protection . . .''—Daniel Perry, Executive Director, Alliance for Aging Research.

''The risk of supporting [Senator Pryor's] legislation would be to weaken the incentives for innovation in academia, research institutions, and medical research-based companies. We believe that this will impede our capacity to address the growing epidemic of cancer.''—Joseph R. Bertino, M.D., President, American Association for Cancer Research, Inc.

''The ASTMH members have dedicated their lives to easing the suffering of patients under their care and returning them to health whenever possible. In this effort, modern medicines are among our most effective tools. Congress' steadfast support of strong patent protection has encouraged the investments in research and development that make these medicines possible.''—Carole A. Long, Ph.D., President, American Society of Tropical Medicine and Hygiene.

''While we certainly support patient access to lower cost treatments for disease and disability rehabilitation, that short-term benefit pales if it comes at the long-term expense of finding cures to life-threatening illnesses.''—Sandra H. Kownacki, President, Autism Society of America.

''Because of the discoveries born of these investments [in pharmaceutical research], the patients we come in contact with every day benefit through saved lives and improved quality of life.''—Robert J. Beall, Ph.D., President and CEO, Cystic Fibrosis Foundation.

''Patients afflicted with disease look to biomedical research, especially research taking place in America's pharmaceutical industry, for new and better treatments to restore them to health.''—Patti Munter, President, The National Organization on Fetal Alcohol Syndrome.

''Our patients have experienced the direct benefits of the tremendous investments that the pharmaceutical industry has made in research and development. Research-based companies need and deserve the incentives provided by strong intellectual property protection.''—Judith Simpson, R.N., Ed.S., President, United Patients' Association for Pulmonary Hypertension, Inc.

Mr. HATCH. As the ''Dear Colleague'' letters point out, what is at stake here is not just the patent status of a few drugs, but also our international trade posture and the complex set of incentives and regulations that govern our Nation's biomedical research and development network.

Let me turn to a more detailed explanation of my position.

As my colleagues are aware, the Uruguay Round Agreement Act—the URAA—is the statute that implements the GATT Treaty.

Some have said today that the GATT patent amendment merely corrects a simple oversight made in drafting the GATT implementation bill.

This is simply not true.

And wishing will not make it so.

Negotiations on the GATT Treaty were exceedingly detailed and complex. They took place over many years—in fact, across the terms of four American Presidents.

Given the ample opportunity for this issue to have arisen previously, it seems to me that those who argue we should adopt this after-the-fact technical correction amendment should face a heavy burden.

Their case is, and should be, severely undercut by the fact that the Congress made changes in the very sections of the relevant laws that we are now being told were not amended as a simple matter of oversight.

One of the chief benefits that the GATT Treaty can achieve for the American people is to increase international protection of intellectual property.

These important agreements are set forth in the Agreement on Trade-Related Aspects of Intellectual Property, the so-called TRIPS provisions. A key aspect of TRIPS was to require that all 123 GATT signatory countries adopt a minimum 20-year patent term, measured from the date that a patent application is filed.

Strengthening international recognition of intellectual property rights such as patents was one of the most important gains we made in the adoption of the GATT Treaty. These rights act to protect innovative American firms, which all to often have been the victims of unscrupulous behavior by foreign competitors who have expropriated American know-how.

Obviously, all World Trade Organization member countries must take seriously their obligations to respect intellectual property rights under the GATT Treaty and ensure that there will be no back sliding.

It is vital that America must also be perceived as honoring its obligation as a World Trade Organization member.

I recognize that Ambassador Kantor has been identified as one who is supportive of this type of Pryor amendment.

In a September 18 letter to Senator PRYOR, Mr. Kantor takes a view that the approach advocated by the Pryor amendment does not weaken the campaign for stronger patent protection abroad and reflects the intent of the drafters of the URAA. I disagree with him, and I disagree with Senator PRYOR on both scores.

First, I would like to point out that two former U.S. Trade Representatives, William Brock and Clayton Yeutter, have stated that the recently adopted GATT Treaty is a major improvement that benefits the American public.

They have explained that changing the implementing legislation now sends exactly the wrong message.

Mr. President, both of these international trade experts were active participants in the TRIPS negotiations during their respective stewardships at the U.S. Trade Representatives' Office as U.S. Trade Representatives.

As Mr. Yeutter wrote to the Finance Committee in September of this year:

In the Uruguay Round, one of the principal objectives of the United States was to strengthen international protection of patents, trademarks, copyrights, trade secrets, and semiconductor lay-outs. The United States leads the world in ideas and innovation, particularly in cutting-edge technologies such as pharmaceuticals and biotechnology. Thus, . . . TRIPS . . . was a major breakthrough for the United States.

He goes on to say:

In my view, adding further preferential exceptions to the Uruguay Round's 20-year minimum patent term, for the generic drug industry or anyone else, would set an unfortunate precedent and seriously undermine U.S. efforts to secure stronger International IPR disciplines. Many developing countries have long opposed effective patent protection for pharmaceuticals and agricultural chemicals in order to protect domestic industries engaged in illicitly copying American products.

As Mr. Yeutter clearly indicates, there are strong trade policy arguments for standing firmly behind this new 20-year rule. These concerns were also shared by another former U.S. Trade Representative, William Brock.

In a recent letter, Senator Brock explained the significance of the GATT intellectual property provisions:

When I first proposed international agreements to extend intellectual property protection worldwide under the GATT, no one believed it could be done. Yet it was the crowning achievement of the recently successful Uruguay Round. . . Now I hear that some pending proposals could imperil the implementation of that agreement. I refer specifically to legislation recently introduced by David Pryor. . . .

Proponents suggest that this legislation is only a ''technical'' correction to the . . . URAA . . . and neither weakens patent protection . . . nor diminishes the United States' ability to fight for stronger international patent protection. I disagree!

Senator Brock goes on to say as former Trade Representative:

It will be difficult, if not impossible for the United States to force other nations to adhere to the TRIPS agreement if we set this unfortunate precedent.

In sum, in exchange for the hope of short term savings, the PRYOR proposal could cost all U.S. firms and workers the enormous long term gains we worked so hard to achieve in the Uruguay Round. That is penny wise and pound foolish.

When the comments of these two former U.S. Trade Representatives are contrasted with the views of Mr. Kantor, and my friend from Arkansas, Senator PRYOR, it is clear that this is the type of issue upon which reasonable and honorable people may disagree.

I understand that the proponents of this amendment are motivated by good intentions, but I think they are on the

wrong side of both the law and the policy on this issue.

In further support of my viewpoint I point out that Ambassador Kantor's counterpart at the European Commission finds the Pryor approach extremely troublesome. Now, if you know the British, when they say ''extremely troublesome,'' that is about as strong a statement as they can make.

Sir Leon Brittan has informed the current U.S. Trade Representative:

I am therefore concerned that the adoption of these proposals (or for that matter, any other bill which aims at achieving the same objectives) would send a negative and highly visible signal to those numerous countries which are still in the process of preparing new legislation on the protection of pharmaceutical innovation.

This information should dispel the myth that there are no important trade implications at stake in this debate.

It should dispel the myth that the Pryor amendment has no potential negative impact on our efforts to enhance international respect for intellectual property laws.

I ask unanimous consent that the remarks of Clayton Yeutter, Bill Brock, and Sir Leon Brittan be printed in the RECORD.

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

THE RIGHT HONOURABLE SIR LEON BRITTAN, OC, VICE-PRESIDENT OF THE EUROPEAN COMMISSION,
Brussels, Belgium, October 20, 1995.

Hon. MICKEY KANTOR,
U.S. Trade Representative,
Washington, DC.

DEAR MICKEY: My attention has been drawn to draft legislation recently introduced in the United States Senate (S. 1191 and S. 1277), concerning the marketing of generic pharmaceutical products. As I understand it, the effect of these Bills would be to deprive the owner of a pharmaceutical patent of the full benefits of the patent term provided for in the TRIPs Agreement of the Uruguay Round.

This threat causes serious concern to the European research-based pharmaceutical industry and to the Commission, and seems to be in contradiction with the long-standing US policy of providing strong protection for research-based intellectual property rights, both at home and abroad.

The United States and the European Community combined their forces during the Uruguay Round on patent questions. We fought successfully together, for example, for the principle that existing subject matter should benefit fully from the reinforced standards included in the TRIPs Agreement. The unqualified adoption of these provisions by our trading partners, especially in the developing countries, is of great importance for American and European industry alike. Any deviation from these principles should therefore be treated with utmost care. This also applies to the use of the exceptions clause contained in Article 70(4) of the TRIPs Agreement. In my view, these proposals have several significant shortcomings, and the basic philosophy which they translate into legislative language would contradict our mutual aim of providing a reasonably high and secure protection for the huge investments made by EC and US research-based pharmaceutical companies.

I am therefore very much concerned with the potential impact of the adoption of such legislation on third counties. For several years both the US and the Community have made major efforts, jointly in the GATT but also in the context of our respective bilateral negotiations with third countries, to improve the protection of intellectual property rights. This effort has been successful, both in the GATT where the TRIPs Agreement has now been adopted as part of the Uruguay Round, but also in our relations with many third countries. This includes not only significant improvements with respect to the adoption of higher substantive standards for patent protection but also so-called pipeline protection for pharmaceutical and agrochemical product inventions. Nevertheless, there is still a long way to go before the TRIPs Agreement is implemented by our WTO partners, and we both have further objectives to pursue at the bilateral level in terms of improved protection of our intellectual property rights. I am therefore concerned that the adoption of these proposals (or, for that matter, any other bill which aims at achieving the same objective) would send a negative and highly visible signal to those numerous countries which are still in the process of preparing new legislation on the protection of pharmaceutical inventions.

I very much hope that you share my worries and the United States Administration will convey these concerns to the United States Congress.

Sincerely,

LEON.

HOGAN & HARTSON L.L.P.,
Washington, DC, September 26, 1995.

Re amendment to shorten pharmaceutical patent terms under Uruguay Round Agreements Act.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing at the request of Glaxo-Wellcome, Inc. to offer my views on the application of the Uruguay Round Agreements Act (''URAA'') to certain pharmaceutical patents. As I understand it, an amendment may be offered by Senator Pryor in the Finance Committee to extend the transition rules of Section 532(a)(1) of the URAA to generic drug manufacturers that already receive preferential treatment under the Hatch-Waxman Act. The Pryor Amendment (S. 1191) would in effect shorten the terms of these patents in order to safeguard the activities of generic drug manufacturers that would otherwise be deemed to be infringing under U.S. law.

In the Uruguay Round, one of the principal objectives of the United States was to strengthen international protection of patents, trademarks, copyrights, trade secrets, and semiconductor lay-outs. As you will recall, we fought long and hard even to get this issue on the Uruguay Round agenda. The United States leads the world in ideas and innovation, particularly in cutting-edge technologies such as pharmaceuticals and biotechnology. Thus, the Agreement on Trade-Related Intellectual Property Rights (''TRIPS''), which established effective legal protection for patents (including a minimum 20 year patent term), was a major breakthrough for the United States.

In my view, adding further preferential exceptions to the Uruguay Round's 20 year minimum patent term, for the generic drug industry or anyone else, would set an unfortunate precedent and seriously undermine U.S. efforts to secure stronger international IPR disciplines. Many developing countries have long opposed effective patent protection for pharmaceuticals and agricultural chemicals in order to protect domestic industries engaged in illicitly copying American products. This is one reason the United States finally agreed to extremely long transition periods in TRIPS. The proposed amendment would provide further aid and comfort to foreign pirates that want to continue infringing American patents. It would be thrown back at U.S. trade negotiators every time they complain that a foreign government is not adhering to its TRIPS obligations.

In Section 532(a)(1) of the URAA, Congress made the right choice by rejecting proposals to in effect shorten the 20 year minimum patent term established in TRIPS. To reconsider that decision now would be a mistake; the proposed amendment would clearly undercut future U.S. efforts to enforce strong international IPR disciplines.

Sincerely,

CLAYTON YEUTTER.

THE BROCK GROUP, LTD.,
Washington, DC, September 20, 1995.

Senator WILLIAM V. ROTH, JR.,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR ROTH: When I first proposed international agreements to extend intellectual property protection worldwide under the GATT, no one believed it could be done. Yet it was the crowning achievement of the recently successful Uruguay Round—thanks almost solely to the persistent and active support of the U.S. business community and U.S. governmental leaders.

Now I hear that some pending proposals could imperil the implementation of that agreement. I refer specifically to legislation recently introduced by David Pryor, called the Consumer Access to Prescription Drugs Act (S. 1191). S. 1191 creates special rules so that the generic pharmaceutical manufacturers can take advantage of preferential treatment under the Drug Price competition and Patent Term Restoration Act of 1984 (''Hatch/Waxman Act'') without adhering to the 20 year patent term negotiated during the GATT Uruguay Round negotiations.

Proponents suggest that this legislation is only a ''technical'' correction to the Uruguay Round Agreements Act (URAA) and neither weakens patent protection under URAA nor diminishes the United States' ability to fight for stronger international patent protection. I disagree! This issue is far too important to risk on the basis of hoped-for ''good intentions'' in nations which have never favored intellectual property protection.

Countries around the world are still in the process of implementing the Uruguay Round Agreement. A number have withheld their own action to wait and see what we do. We all know those whose prior actions have cost American inventors and entrepreneurs billions. The will see this retreat on our part as a ready excuse to implement their own *minimalist* versions of intellectual property protection. It will be difficult, if not impossible for the United States to force other nations to adhere to the TRIPS agreement if we set this unfortunate precedent.

In sum, in exchange for the hope of short term savings, the Pryor proposal could cost all U.S. firms and workers the enormous long term gains we worked so hard to achieve in the Uruguay Round. That is penny wise and pound foolish. The United States must continue to be a leader on full implementation of every aspect of the agreement on intellectual property in both substance and in form.

One final additional point. Domestically, this legislation would upset the delicate balance provided for in the Hatch/Waxman Act, which already grants generic pharmaceutical

firms special treatment in the area of patents not available to other industries. S. 1191 would further the bias against pioneer pharmaceutical firms.

Please give careful consideration to the negative impact this legislation would have. I would be delighted to give you additional specifics if it would be helpful.

Sincerely,

WILLIAM E. BROCK.

Mr. HATCH. I also take exception to those such as Senator PRYOR and Ambassador Kantor who suggest this amendment achieves a result clearly intended by the URAA.

This is the position that was taken in a September 27 letter from the FDA Deputy Commissioner for Policy, William Schultz.

I must highlight with great skepticism the portion of the FDA letter that states in part: ''the URAA does not address the effect of the URAA patent term extensions on the drug approval process under the Federal Food, Drug, and Cosmetic Act * * *''

It may be true that the URAA does not address the question in a way the FDA and proponents of the Pryor amendment would like, but let us be crystal clear that the relevant statutes do, in fact, address this question.

I find the characterization in the September FDA letter particularly interesting in light of the earlier May 25, 1995 FDA response to a citizen petition filed by several innovator drug firms.

The May FDA statement of policy is quite explicit on what the law addresses. In that statement, the FDA acknowledged that the Supreme Court's 1984 Chevron decision provides guidance in the area of statutory construction. In Chevron, the Supreme Court instructed ''If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.''

Consider the following five direct quotes from the May FDA statement signed by Deputy Commissioner Schultz:

No. 1:

The agency believes that interpretation of the interrelationship between the transitional provisions of section 532(a)(1) of the URAA and 35 U.S.C. is governed by the plain language of the URAA.

The second direct quote from the FDA May statement signed by the very same Deputy Commissioner Schultz:

The URAA is not 'silent or ambiguous' on the question of applying the transitional provision to the generic drug approval process.

Let me give you the third:

Moreover, this apparently is not an example of Congress having overlooked a statutory provision that might have been changed had it been aware of its existence . . .

No. 4:

. . . the agency does not believe that it can assert that Congress was unaware of the existence of these remedies for infringement of patents on drug products, and, therefore, did not include them among the unavailable remedies. . . of the URAA.

And finally, No. 5:

In the present matter, therefore, the plain meaning of the URAA is dispositive.

This is quite a contrast from the recent letter from Mr. Shultz which can be called nothing less than political.

In the May letter, this FDA official makes some very compelling and categorical findings which support my arguments about the proper interpretation of the relevant statutes. A number of courts have issued rulings consistent with this interpretation.

For example, on August 8, 1995 the United States Court of Appeals for the Federal Circuit issued a ruling in the case of DuPont Merck Pharmaceutical Company versus Bristol-Myers Squibb.

Upon reviewing the relevant statutes the court found that, ''* * * the URAA does not clash with the Hatch–Waxman Act,'' and precluded the generic manufacturers from entering the market via the Waxman-Hatch route until the expiration of the affected patent. Likewise, as I stated earlier, on October 16, the United States District Court for the Eastern District of Virginia issued an opinion in a group of four consolidated cases that raised similar but not identical URAA/Hatch-Waxman issues.

In this case, Merck versus Kessler, the court was unpersuaded by the arguments made by the generic drug industry and stated ''This was no more a windfall * * * than the windfall which benefited many patent holders when the 17-year term of patents was extend to 20 years.''

I think the District Court got the law on the windfall issue exactly right.

Finally, I would note that on November 1, the Federal Circuit, the court that handles patents, copyrights, and trademark issues, overturned a decision rendered by the United States District Court for the Southern District of Florida in the case of Bristol-Myers Squibb versus Royce Labs.

Although, as I have laid out, various officials in the current administration and the proponents of the amendments now flatly assert that Congress clearly intended the result they wish to achieve, it is instructive that the Federal Circuit ruling—this is last November 1, just a little over a month ago—noted:

The parties have not pointed to, and we have not discovered, any legislative history on the intent of Congress, at the time of passage of the URAA, regarding the interplay between the URAA and the Hatch-Waxman Act. Therefore, we limit our inquiry to the wording of the statute.

I wonder what tangible information that Ambassador Kantor and the FDA possess on this issue of intent and why neither the litigants nor the Federal Circuit appear to have it at their disposal?

In finding against the generic manufacturer the Federal Circuit makes a number of points in the Bristol-Myers Squibb versus Royce Labs case that I wish to bring to my colleagues' attention:

1. The decision notes the unique treatment afforded to new drugs by the 1984 law. The Federal Circuit said:

Yet, as the Supreme Court stated in *Eli Lilly Co*. v. *Medtronic Inc*., the Hatch-Waxman Act created an important new mechanism designed to guard against infringement of patents relating to pioneer drugs, with enforcement provisions that apply only to drugs and not to other products.

2. The Court also observed, citing as authority the 1990 Federal Circuit decision in the VE Holding Corp. case: ''We presume 'that Congress is knowledgeable about existing law pertinent to legislation it enacts.' ''

3. The Court went on to say that:

We believe that if Congress had intended that the URAA affect the Hatch-Waxman Act's finely crafted ANDA approval process in the manner urged by [generic manufacturers], at the very least it would have referred to 21 U.S.C. 355(j) and 35 U.S.C. 271(e) in the URAA.

4. Finally, the Federal Circuit boiled down the situation as follows:

The statutory scheme does not say, as [the generic manufacturer] argues . . ., ''If normally you would infringe, you do not infringe during the Delta period.'' Rather, it says, ''If normally you would infringe, you also infringe during the Delta period.''

So let there be no doubt in anyone's mind about the clarity of the law or the intent of Congress in this area.

Having discussed the trade policy argument and the ''it-is-merely-an-unintended-technical- oversight'' argument, I would like next to address this windfall issue since it goes to the heart of the argument advanced by those behind this amendment.

Let me say to my colleagues that my involvement in the Hatch-Waxman Act of 1984 compelled me to think carefully about the need for balancing incentives.

The American public should enjoy the benefits both of low-cost generic medications and breakthrough products developed by R&D-based firms. I have worked hard to see that both sides are taken care of. Let me repeat that: Both lower-cost generic drugs and breakthrough drugs ought to be available to American consumers.

The challenge is to devise incentives that foster the availability of both breakthrough and generic drugs. That is precisely what Hatch-Waxman attempts to do and has done.

Let there be no doubt that I am a supporter of both the generic and the innovator sectors of the pharmaceutical industry. One of my great regrets is that neither sector has as large a presence in my State of Utah as they do in many other States across the Nation. But both are there.

Nevertheless, both of these players in the pharmaceutical market produce products that have enormous benefit for citizens in Utah and everywhere. It is for that reason that we must weigh heavily any legislation that would adversely affect their ability to deliver these products to the public.

The fact that I oppose this particular amendment does not change the fact that I am, and will remain, a devoted supporter of the generic drug industry. Unlike my colleagues proposing this

amendment, however, I am convinced that it would be unwise to adopt this measure.

The proponents of the Pryor amendment urge that only one industry is singled out in current law for different treatment under the URAA transition rules. What is absent from this line of reasoning is the fact that only one industry, the generic drug industry, is permitted by current law to engage in activities that would ordinarily constitute patent infringement—and I am one of the people who helped them get there.

Mr. President, I remind my colleagues that before we so hastily throw around the terms ''windfall'' and ''unjust enrichment'' let us clearly understand the laws and policies at issue and how they affect incentives for biomedical research.

One of the centerpieces of this debate is the operation of the so-called ''Bolar Amendment'' contained in the Hatch-Waxman Act and codified at 35 U.S.C., section 271.

In the 1984 Roche versus Bolar case, the Federal Circuit held that the manufacture or use of a patented product for the development of data to submit to FDA constituted patent infringement.

It is this provision of the Hatch-Waxman Act that treats generic drug manufacturers differently from every other industry in our economy.

Under the Hatch-Waxman Act generic drug firms may legally use a pioneer product to help secure FDA approval and can gear up production to go on the market before the pioneer product patent expires. Normally such activities would constitute patent infringement, clear and simple.

There is nothing similar to the special treatment afforded the generic industry elsewhere in the patent code. This unique status is sufficient to justify treating generic drug products differently treatment under the URAA transition rules.

One of the things that I find troubling about this amendment today, like the previous amendment offered at the Finance Committee mark-up, is that the Senate floor—when debating a bill to ban partial-birth abortions—may not present the best time or place to reconsider the details of such carefully crafted bills such as the URAA and the Hatch-Waxman Act.

The FDA policy statement issued in May states:

> The 1984 Waxman-Hatch Amendments to the Federal Food, Drug, and Cosmetic Act represent a careful balance between the policies of fostering the availability of generic drugs and of providing sufficient incentives for research on breakthrough drugs . . . There is certainly a strong argument to be made that such a compromise should not be upset without hearings and careful deliberation as to the impact on the twin interests served by the Waxman-Hatch Amendments.

As Chairman of the Judiciary Committee, I can say that the Committee has an interest in any legislation, such as Senator PRYOR's, that affects patent rights. As one of the authors of Waxman-Hatch and as an advocate for both the generic and pioneer sectors of the industry, I have a special interest in the legislation under debate.

But since this debate is taking place now, I believe that I have a responsibility to provide perspective on some of the changing pressures on the biomedical research and development that have occurred since the passage of Hatch-Waxman back in 1984.

Let me turn to some charts which I believe illustrate this, and I will do this to try to move along. However, this is an important issue, which should not just be tossed aside. Nor should we act like this is just a simple little issue between consumers and gouging drug companies.

Let me turn now to some charts which I believe illustrate the broader context in which this amendment must be evaluated.

There are a number of complex factors that shape the environment of the biomedical research enterprise in this country.

By placing their sole focus at the back end of the R&D pipeline and on those few products that are successfully commercialized, the proponents of the amendment do not take into account the nature of the risks involved in conducting the necessary research leading to development of new drugs.

If the United States is to remain the world's leader in health care technology and our citizens are to continue to receive the latest in medical advances, it seems to me that the Senate has a responsibility to look at the factors that influence participation in the front end of the development pipeline.

In my view, it is critical that we work to create the incentives necessary to attract trained personnel and resources into biomedical research and development.

This first chart shows pharmaceutical research and development as a percentage of sales. As you can see, the electrical products industry spends 2.5 percent on research and development as a percentage of sales, the telecommunications industry 3.7 percent, the aerospace industry 4.2 percent, the scientific instruments industry 5.4 percent, and the office/computer machinery industry 8.0 percent. On the other hand, in 1993 the pharmaceutical research and development companies spent 18.3 percent of their total sale on research and development.

That is what is involved here—research, research, research—the hope for the future that we might solve some of these immense medical problems.

As you can see, the ratio of R&D investment as a percentage of product sales is significantly higher than for other representative R&D industries such as electronics, computers, aerospace, and telecommunications.

As a result of this investment, the United States still enjoys a positive balance of trade in the area of pharmaceuticals. Between 1989 and 1994, the sum of these annual positive balances was over $5.2 billion.

Maybe if other industries would invest as much in R&D as the drug industry, the United States could once again have a favorable overall balance of trade.

A favorable balance of trade means jobs for Americans, and that is an important consideration in today's economic climate.

Let me go to the next chart. This next chart shows how many research misses it takes for pharmaceutical companies to find a hit that is commercially viable. This shows how many chemically synthesized drugs there are. The reason we have the break here is because the poster is not large enough to show how high this bar would really go—5,000 drugs identified. Of those 5,000, only 500 were tested in organ preparations. Of those, only 250 were tested in animals, 5 in human clinical studies, and only one was eventually approved for use in humans by the FDA. One out of 5,000 tries becomes a hit—one.

These companies take tremendous risks in trying to come up with a marketable drug, one that will return what it costs for the research and development to develop it.

As you can see, for every successful drug that emerges out of the pipeline, 5,000 potential products drop by the wayside.

One other fact to note as we go from activity to activity across the bottom of this chart is that these activities get costlier as we move from test tube to the patient's bedside.

Let me go to the next chart because these are things you should not ignore. This chart shows that this is a bigger policy issue than the belief by some that these companies are gouging.

This next chart shows the drug development cost rising over time. In 1986, the cost to develop a new drug was $151 million. In 1990, the average cost for the approval of a new drug was $359 million.

As you can see, it costs a lot of money to bring a new drug to market. In addition, these costs have risen since the passage of the Hatch-Waxman law in 1986. And these costs continue to rise today.

Clinical and preclinical tests are costly. They are difficult. And they are highly regulated activities.

As you can see, a significant amount in gross sales must be generated by each one of these research companies, like any one of the ones they are complaining about here, to recover the huge drug development costs. There has to be in the billions of dollars of sales to recuperate their research and development companies.

If they do not recuperate those moneys at least a part of the time—and they do not a lot of the time—they are not going to stay in business. If this happens, we will not have these blockbuster drugs, and we will not have the

life-saving pharmaceuticals that are saving people's lives every day.

We will not have a cure for AIDS, and we will not have a cure for Alzheimer's disease or any other number of diseases.

The next chart shows that there is a public/private partnership in drug research and development.

Mr. CHAFEE. Mr. President, I wonder if I might ask the Senator a question, if it is possible to reach a time agreement on this?

Mr. HATCH. There sure is. I will be through in a few minutes. I do not think that I will have any more to say, unless somebody asks questions. I am happy to reach a time agreement.

Mr. CHAFEE. I ask the sponsor. We are all here. Can we arrive at a time agreement?

Mr. HATCH. Why don't you get your side together, let me finish my remarks and then we will agree on a time agreement?

Mr. CHAFEE. You are in such flying form. You have all of your engines running.

Mr. HATCH. That is why I want to finish my remarks. This is an important issue. As the author of the Hatch-Waxman Act, I am very concerned about it. However, I do not intend to take too much longer. We are going through the salient points.

This particular chart shows R&D expenditures. NIH expenditures are the blue bars. The private sector expenditures are the green bars. The private sector means the pharmaceutical research company.

In 1985 we spent more on research and development in the NIH —$4.8 billion— than was spent by the pharmaceutical companies —$4.1 billion on R&D.

In 1988, R&D for the pharmaceutical companies started to surpass NIH—$6.3 billion for NIH, and $6.5 billion for the pharmaceutical companies.

In 1991, the NIH spent $7.7 billion, and the pharmaceutical companies jumped to $9.7 billion.

In 1995, the NIH will spend $11.3 billion on research and development. The pharmaceutical companies will spend almost $15 billion.

Pharmaceutical companies are doing the job. Do not undercut them. This amendment undercuts them. This amendment appears to be a populist amendment. It seems to have appeal to those who think they are on the consumer side. But the consumer really is on both sides—one side would lead to lower drug costs on the short run, our side would lead to continued support of the research and development of drugs for the long term.

Research and development benefit the generic companies because if they do not get to blockbuster drugs, the generic companies will not be able to copy them.

I have already shown that the drug industry spends a relatively large proportion of its earnings in R&D and that the cost of bringing the successful drug to market is high and rising.

That chart shows one of the most significant developments in the biomedical research enterprise since the passage of Hatch-Waxman in 1984.

The R&D expenditures by pioneer drug companies now—for the first time in recent history—exceeds the funding of the National Institutes of Health.

One of the major reasons that the United States is the world's recognized leader in biomedical research is the public investment made in NIH since World War II.

American citizens have enjoyed the benefits of the close partnership that has developed among pharmaceutical and medical device firms, academic medical centers, and the NIH.

The basic research conducted at and supported by the NIH is complemented by the private sector R&D efforts.

This is the type of public-private partnership that we can all take pride in and should fight to retain in the future.

We do not want to take away the incentives of R&D. That is what this amendment does.

We all know of too many instances in which our foreign competitors have exploited their close linkages between Government and industry to wrest away U.S. industrial leadership. If we Americans leverage together our public and private sector resources, we can compete against anyone in the world.

As we tighten our budget belt to put the Nation's fiscal house in order, I do not think it is realistic to expect that we will continue to see the growth rate in the NIH budget that is represented on this chart.

But I want to see this growth rate of the research companies continue.

Since 1988, the NIH budget has almost doubled.

If we are to retain our world leadership in biomedical research it will be important to retain the incentives that will encourage drug firms and the capital markets to invest their resources in this research.

This chart shows that industry is stepping up to the plate.

American citizens and families around the world will benefit from this research.

What is the difference between the regulatory review requirements for generic versus pioneer drugs?

Let me show the difference for those of you who may not have a knowledge of FDA law. These are the steps to establish safety and efficacy for innovator drugs for these research companies, which take 12 years to complete. In 1990, this process cost $359 million. Lab and animal studies, 3.5 years; phase one safety studies, 1 year; phase 2, testing effectiveness of studies, 2 years; phase 3, extensive clinical testing, 3 years; FDA review, 2.5 years.

Under Hatch-Waxman, look at how the generic benefit. We provide a shortcut for generic drugs. All they have to do to take their drug to market is to complete a bioequivalency test and establish that their drug is bioequivalent. That takes 10 to 18 weeks.

That takes 10 to 18 weeks, and an abbreviated new drug process which is 6 months. That is all they have to do. They do not have to spend $359 million. They can copy that drug the minute it comes off patent and eliminate the costs. This has made and built the whole generic industry and has benefited consumers through saving billions and billions of dollars since 1984.

Are we going to just make it even more difficult for these companies that have made this whole industry by now, under Hatch-Waxman, and let them just take these drugs and run with them? I fought to get this done. I believe in generics. I think this ought to continue. Let us be very, very clear about it. This is a privilege that we give no one else in patent law, and we do it for consumers.

Now, are we going to now to make it very, very difficult to produce the drugs that these people have to have to be able to survive? I hope not.

A study by the Tufts University Center for the Study of Drug Development estimated that it takes on average $359 million and 12 years to get a new drug approved by the Food and Drug Administration. I know that is insane, but that is what it takes.

A lot of time elapses in the laboratory just determining the best drug candidates through test tube and animal studies. Three complex and time-consuming phases of human clinical trials are required to develop the necessary safety and efficacy data that must be submitted to the FDA. This testing takes time and money.

It is essential in this debate to understand that the generic drug manufacturers are not required to undertake any of this extensive and expensive testing.

Let no one undervalue the importance that this testing process has for the health and safety of every American.

In contrast to the rigorous safety and efficacy requirements placed on the pioneer drug firms—these up here that takes 12 years and $359 million to develop a drug,—the Hatch-Waxman law provides for a much simpler and easier approval standard for generic drugs.

Generic drug manufacturers can rely upon the safety and efficacy data of pioneer firms and must only show that their product is bioequivalent to the pioneer product. That can be done in a matter of weeks, not years, at a fraction of the cost and none of the risks that are faced by these pioneer firms.

According to a 1992 Frost & Sullivan study, after the passage of the Hatch-Waxman Act, the average cost for a generic drug company to prepare and file an abbreviated new drug application is ''well below the million mark.''

A large part of the reason why generic drugs can be sold for less than brand-name products is that the generic companies do not have to perform the extensive research and clinical

trials required of innovator drug companies. Nor do generic drug firms have to finance all the products that fall by the wayside.

Generic drug companies piggyback on the fruits of the pioneer's research. We permit that. We want that to occur. But we should not ignore what a great thing the pioneer companies do for us.

There is a tremendous amount of appeal to an amendment which appears to provide consumers with the opportunity to greater access to lower-cost drugs. If Senator PRYOR's proposal were that simple, I would be for it. It is easy to get up and make it look like your approach is the only approach for consumers.

But if the companies that go through these 12 years, $359 million, 5,000 tries to get one drug are undercut, we are all undercut, and the generics will not have any drugs to copy so that they can keep their industry going.

It is penny-wise and pound-foolish to treat this like it is some simple little consumer versus gouger issue. It is a lot more than that.

Senator PRYOR's proposal is not that simple. You cannot accept it on face value. You have to delve into all the facts and the case law. Failure to examine this information about the nature of these two industries would be shortsighted at best.

In fact, there could be some short-term financial gains for some if we did not provide full patent term for a whole range of products. By that logic, however, we ought to just make everything generic—generic appliances, automobiles, electronics, everything. It would save the consumers all kinds of money.

It would also dry up all research and development, all technology, all the investment in quality and efficient production, including jobs and the vast array of choices Americans have as consumers.

We would no longer have breakthrough drugs which are improving and saving the lives of so many millions of Americans.

As I have said, I have a tremendous affection for both the brand name and generic industries. They are both important to our Nation's health care.

In my view, it is clearly in the best interests of consumers that both pioneer and generic drug companies exist harmoniously in our competitive drug and medical marketplace.

It serves neither the public nor this body well for us to berate continually the R&D-based pharmaceutical industry which is doing so much good in this world and ironically is the industry upon which the generic companies themselves rely.

I believe we have to defeat this amendment. I understand the distinguished Senator from Ohio has an amendment to this amendment. My personal preference would be to defeat this amendment and to stand up for American trade, American technology, American research and development, for the right to keep these products coming to these generic companies, for the right of all Americans to have access to reasonable and good and life-saving drugs and to have the incentives to get us there.

By the way, just to choose Zantac as an illustration, Zantac is a therapeutically important drug. It is one of the best antiulcer medications in the world today. Of course, there are other drugs of this class. Tagamet, for instance, is already subject to generic competition. It just so happened that the company that makes Zantac, Glaxo, had gone through this long, expensive research and development process, and they were left with an effective patent term of around 12½ years after FDA approved this product. The URAA will extend its patent life for an additional 20 months or thereabouts.

The fact is that the drug Zantac came out in 1983, 1 year before the Hatch-Waxman bill, and therefore had it been approved 1 year later it would have qualified for, as I understand it, 2 full years of further patent protection under the transition rules of Hatch-Waxman.

In fact, Zantac was a loser under Hatch-Waxman. Well, it happens to be a winner under the GATT Treaty and Uruguay Round Agreement, and if we undercut that, yes, you might be able to say, well, they are going to make some additional revenues—I see your chart here—$3 billion, but let me tell you something. They spent millions of dollars developing this product, and they lost a substantial time of their patent term before the product was approved. Even with the time it receives under the URAA, it still does not get a full 17-year patent term.

There is another side to the coin. I do not want anybody to get an unfair windfall, but it is hardly a windfall when firms are investing billions of dollars in research annually. I have to say that there were winners and losers under Hatch-Waxman, and there will be winners and losers under the GATT Treaty.

But the bigger policy concern is how not to undercut the treaty and send the wrong message to the rest of the world. Undercutting intellectual property protection would be injurious to the whole world, or at least the 123 nations that agreed to GATT, and not undermining the incentives for pharmaceutical research that enables our country to be the leader in the world in this important endeavor.

I do not think there is any reason for the generic companies to come in here and complain since their whole industry was created by the very bill that they are now trying to amend and take even further advantage when, in fact, they have a tremendous advantage today and will have every year that the Hatch-Waxman bill is in effect. So this is not some simple little gouging issue or some simple little equity issue.

Mr. President, I have a number of concerns relating to the manner in which the language of the amendment is drafted. These concerns include: On substantive grounds, as I have argued earlier, I am opposed to the manner in which sections (a) and (b) of the amendment, respectively, act to overturn the 17 year from grant/20 year from filing choice of the URAA transition rules and the elimination of section 271(e) of title 35, United States Code, as the sole and unique remedy provided by the Hatch-Waxman Act.

I am also concerned about the operation of the equitable remuneration provisions contained in section (c) of the proposed amendment. It appears to me that this provision puts the cart before the horse. Under the Hatch-Waxman law patent rights are carefully determined before a generic drug product may be approved for marketing.

Section (c) of the amendment appears to reverse the operation of the URAA transition rules. Specifically, the amendment seems to allow a generic drug manufacturer to infringe and only allows a patent holder to seek equitable remuneration after the infringement has taken place. This is opposite of current law which makes a potentially patent-infringing ANDA applicant subject to an infringement action and an equitable remuneration determination prior to the commission of any infringing act.

I also will seek clarification of whether this amendment would permit the marketing of generic versions of products that vary slightly from innovator products without triggering the equitable remuneration provisions. Specifically, I will seek clarification of whether the phrase in section (c), ''an approved drug that is the subject of an application described in subsection (a)'', refers to the innovator drug or the generic copy.

I am also concerned about the lack of guidance on the question of what constitutes a ''substantial investment'' under this amendment and whether an innovator firm may contest such an assertion made be a generic firm. In addition, I will seek a better understanding of what standards a court should apply when reviewing the apparently unilateral finding on the part of a generic manufacturer that it has made a substantial investment.

So, there are many technical questions that can be raised about this amendment.

At this point, I hope I have made the case for this side, and I personally hope that Senators will defeat the Pryor amendment and that we go about keeping the industry going the way it has been going in both areas for the benefit of all mankind.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, with the principals in the Chamber here, I wonder if it would be possible to set a specific time that we might vote.

I know a lot of Senators are out, so I do not think we are in the position

where we can go immediately to a vote in 15 minutes or so. I would offer the suggestion that we agree to vote at 8:30, while allowing time for the Senator from Ohio and others to speak.

I defer to the Senator from New Hampshire.

Mr. SMITH. I would say to the Senator from Rhode Island, we are working on that. We are very close. We are not quite there. We need to confer with Senator HATCH for a few moments. We may very well be able to come up with an agreement very similar to what the Senator just indicated, if he could give us a few more minutes.

Mr. CHAFEE. Fine. I am just I suppose a catalyst here. But I do know that people are away, so that as much notice as can be given the better.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, Senator DODD and my second-degree amendment to the Pryor amendment expresses the sense of the Senate that the Senate should, through the Committee on the Judiciary, conduct hearings to investigate the effect of these new patent provisions in title 35. I think it makes eminent sense to do this. Let me just, while I see my colleague from Utah on the floor, get his attention for a moment and ask him if he could respond to a question.

Mr. HATCH. Sure.

Mr. DEWINE. The second-degree amendment Senator DODD and I have offered provides that this issue would be referred to the Judiciary Committee for hearings. And as chairman of the Judiciary Committee, I wonder if the Senator could give the Members of the Senate some indication of how he intends to conduct the hearing or what time there would be in that event. There have been some questions on the floor. And I think we should respond to the Members before the voting in regard to that.

Mr. HATCH. I am not adverse to hearings. I think this is that important. In fact, I think it is an appropriate way to proceed. I have to tell the Senator that we have about all we can handle for the rest of the year on the Judiciary Committee. I do not think anybody doubts that. We have the judges, the matters on the floor, and hearings scheduled.

So I would be very happy to agree to some sort of date certain, at least within a time period. I think you ought to give us, I would say, at least 120 days in which to hold a hearing. But I will try to hold it as expeditiously as possible within that period. We will be fair to both sides, because I think both sides need to be fully aired on this matter.

If we hold such a hearing, if the Senator prevails on his amendment, I would do that expeditiously. It would probably be some time after the first of the year, but hopefully within 120 days.

The hearing will give both sides a real airing of this. We will treat this issue—not like some demagoged issue, but treat it like it should be treated, that is, as one of the most important issues in the history of trade negotiations.

So it is up to the Senator. It is his amendment. But I will be happy to put it within a certain timeframe. If the Senator will tell me what he wants, I will be happy to try to do that. If the majority leader tells me, I will be happy to do that.

Mr. DEWINE. It would be my understanding, from the statement made by the chairman, that he would be willing to hold these hearings, and Members of the Senate could be advised these hearings would take place sometime within the next 120 days. Is that correct?

Mr. HATCH. If I understand the distinguished Senator, I would be willing to set it within 120 days, and notify all Members when it will occur, of course. I have no problem with that. I will give advance notice about it.

Mr. DEWINE. I thank the Senator very much.

(Mrs. HUTCHISON assumed the chair.)

Mr. DEWINE. Madam President, let me continue briefly in regard to this matter.

Madam President, I think it is abundantly clear after we have listened to this debate—my colleague from Rhode Island, my colleague from Arkansas, both have been very, very eloquent in regard to this issue—I think it is clear, after listening to my colleague from Utah, the chairman of the Judiciary Committee, that there are two sides to this issue, that there is a very complicated, a very serious issue, and it is the type of issue, quite frankly, that we should have hearings.

We should, as the chairman of the Judiciary Committee just said, hold those expeditiously. We should hear from both sides of the particular issue. And then I believe we will be in a much better position for this Senate to take a position and to actually hold a vote.

I think as we listen to this debate it is just abundantly clear that there are legitimate issues, arguments on both sides of the debate and that we should examine those. Frankly, the only way this Senate has to examine them at length is not just by debate on this floor, but it is also by actual hearings. So I think Members of the Senate should understand that the vote in favor of the DeWine-Dodd amendment would, in fact, guarantee that these hearings would take place and the Senate would have the opportunity to have the benefit of hearings.

There are two sides to this. On the one hand opponents of the Pryor amendment argue that shortening the patent term contained in the agreement on trade related aspects of intellectual property rights, that provision in the Uruguay round of GATT would have detrimental effects on both the development of new and innovative medicines and also the global patent protections gained for United States manufacturers in Uruguay.

In fact, Madam President, according to former Surgeon General Dr. C. Everett Koop, who my colleague from Utah has already quoted, to bring a new single medicine to patients requires on the average an investment of 12 years and $350 million. Of the components tested in a laboratory, only 20 percent ever make it onto pharmacy shelves, and only a third of those ever earn a return on the investment made through the discovery.

Madam President, if we weaken patent protections on these products, we will stifle innovation, and slow down further the discovery of new treatments for diseases such as possibly AIDS or cancer.

Two former U.S. Trade Representatives, Clayton Yeutter and William Brock, argue that passage of the Pryor amendment would set a bad precedent. It would cost all U.S. firms and workers the enormous long-term gains that the Trade Representatives worked so hard for in Uruguay. It would do this by making it nearly impossible for the United States to force other nations to adhere to the intellectual property protections of this agreement.

Robert L. McNeill, executive vice Chairman of the Emergency Committee of American Trade, said the following:

> . . . enhanced protection of intellectual property rights will be diminished abroad if the United States itself violates the patent term contained in the [intellectual property rights protections] agreement. It is almost certain that such an action would provide foreign-based pirates and patent infringers with potent ammunition in seeking to have their domestic governments devise measures that are inconsistent with [these protections.]

Madam President, on the other hand, supporters of the Pryor amendment argue that failure to amend the Hatch-Waxman Act would place a substantial burden on consumers. Moreover, according to U.S. Trade Representative Kantor, amending the act would ''in no way increase the ability of our trading partners to justify their failure to provide * * * consistent patent protection [for intellectual property rights.]''

So clearly, Madam President, this amendment is not as straightforward—the underlying amendment by my colleague from Arkansas is not as straightforward as it might appear on the surface. This is legislation that should be debated fully and not thrown in as an amendment to the partial-birth abortion bill.

Madam President, I yield the floor.

Mr. DODD. Regardless of one's view about the merits of the issue, an abortion bill is not the appropriate place to take up the GATT patent issue. This amendment is complicated, involving issues of patent law, trade, innovation and new drug therapies. This issue needs a full hearing, so that we can get past demagoguery and really look at the issues carefully.

That is why Senator DEWINE and I are suggesting that we hold at least one hearing on the issue before adopting an amendment that would deny the

benefits of GATT to U.S. innovator pharmaceutical companies.

The underlying amendment would result in substantial changes in two statutes—the GATT implementing statute and the 1984 Hatch-Waxman Act. The first is a trade treaty that we negotiated in good faith with many other countries who are relying on our commitment to abide by the strong international patent protections that were a major achievement of GATT. The Hatch-Waxman Act provided special rules for generic drugs that give the generic drug industry an advantage possessed by no other industry in the United States or the industrialized world. These two statutes were developed carefully to ensure that this country continues to lead the world in innovative drugs and new therapies.

These are not issues to be treated lightly. The proposed Pryor amendment is not a technical amendment to the GATT law, though that's how its been characterized. The GATT language was carefully negotiated and should not be amended without careful thought and consideration of the implications.

The Hatch-Waxman Act represents a careful balance between the interests of innovator manufacturers and generic drug companies. It has worked well for more than 10 years and should not be amended lightly.

The proposed amendment also would have a direct and significant effect on patent rights, which fall squarely within the jurisdiction of the Judiciary Committee. The dramatic changes that would result from the proposed amendment would occur without the benefit of prior congressional consideration.

We should not rush to legislate in this area before we hold hearings and give careful consideration to all of the proposed amendment's potential ramifications. I urge my colleagues to support holding a hearing on this issue before voting on a measure that could send a very dangerous signal to our trading partners

Mr. PRYOR. Madam President, I now ask for the yeas and nays on the second-degree amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. The yeas and nays are ordered.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

Mr. PRYOR. Madam President, do I have the floor at this time?

The PRESIDING OFFICER. You have been recognized.

Mr. PRYOR. Madam President, I do not know where the time agreement stands. We have been negotiating during the course of the evening. I know Members of the Senate are at home for dinner and need at least 30 minutes notification.

I would like to say, and I think I can speak for Senator CHAFEE, that we are reaching a point where we are ready to determine a time certain to vote. I would strongly encourage that. I do not know of any other speakers we have on our side. I have a few more comments I would like to make about this subject. I wonder if the Senator from New Hampshire, the manager of the bill, might have any comments on a time agreement, or a time certain?

Mr. SMITH. Mr. President, I believe everyone on our side has spoken who wishes to speak. How much time does the Senator wish?

Mr. PRYOR. I might suggest that we vote at 8:35. If there are no speakers on the other side, I would like to take the remaining time.

Mr. BIDEN. If the Senator will yield, is it possible to consider—I guess it is a leadership decision—starting the vote at 8:25 and let the vote extend, so that those of us who are trying to get transportation out of the city on an 8:30 train could make the train? I will not insist on that, but if it is possible, that would be nice—since no one else wants to speak and we are worried about getting people in here to vote. A couple of us want to get out of here. Is it possible to do that?

Mr. SMITH. Did the Senator say 8:30?

Mr. BIDEN. I only need 7 minutes to make it to the train.

Mr. SMITH. That depends on whether or not the Senator wants to miss the vote.

Mr. BIDEN. No.

Mr. PRYOR. I think, more importantly, is the Senator going to vote?

Mr. BIDEN. Yes.

Mr. SMITH. The Senator from Arkansas asked for how much time?

Mr. PRYOR. Here is what our policy committee has requested. We think it is going to take at least 30 minutes to get our Members here. Therefore, I would like to respectfully suggest that we vote at 8:45 on the motion to table the second-degree amendment.

Mr. HATCH. If the Senator will yield, can we protect a few minutes on this side? I understand Senator HELMS may want to speak. I might want to say one or two things.

Mr. PRYOR. If we can divide the time equally, we can have 15 minutes and you could have 15 minutes.

Mr. HATCH. We may yield back subsequent to that time if it helps our colleagues.

Mr. SMITH. I will propound a unanimous consent request.

I ask unanimous consent that a vote occur on or in relation to the Smith amendment at 8:45 and the time between now and 8:45 be equally divided between the two sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. PRYOR. Madam President, I think this has been a very educational debate, to say the least. During the course of the evening, it has been proposed that we try to have a time certain placed on the sense-of-the-Senate resolution offered by the Senator from Ohio and others. It has further been proposed that if this issue goes before the Senate Judiciary Committee, there might be, for example, a 120-day period when the report from the committee comes back to the floor of the Senate.

Madam President, with all due respect to that idea, let us just look for a moment at what that would do. We have done a little calculation here. If we extend 120 days of protection to Glaxo for Zantac alone—and this does not include the other dozen or so drug companies under this umbrella— 120 days of not resolving this problem will give them unlimited opportunities to charge the highest price for their drug. They will have unlimited protection from any generic that wants to come to the market. Simply put, we are going to be depositing $720 million to the bank account of Glaxo, because by next Christmas of 1996, which is just about 12½ months from now, Glaxo will have made an extra $2.328 billion if we fail to close this loophole.

Madam President, I, as a U.S. Senator, am not a stockbroker. I will never advise anybody to buy any stock or make investment because I have never been very successful at that myself. But if we extend this for 120 days, or even another 30 days, without closing this loophole, I suggest that we all go out in the morning and buy Glaxo stock because they are going to continue receiving an enormous windfall that they had no idea they would receive.

Madam President, second, I ask unanimous consent to add three additional original cosponsors: Senator BRYAN, Senator LEAHY, and Senator DORGAN.

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

Mr. PRYOR. Next, Madam President, there has been a discussion this evening and quotes by my friend from Ohio, Senator DEWINE, and from Senator HATCH of Utah, about Dr. Koop. Well, Dr. Koop got drawn into this issue in a very interesting way, and it appears to me, after talking to Dr. Koop some days ago, that Dr. Koop may not have been aware of—or the Glaxo people may not have presented the true case to—Dr. Koop when they had him sign a particular advertisement which appeared in The Hill newspaper. It also appeared earlier in the Washington Post. This is the advertisement that Dr. Koop signed on October 25, 1995. The advertisement appears to have been purchased by Dr. Koop to say that ''Senator PRYOR's bill would weaken the patent protection needed for the next generation of pharmaceuticals.''

I called him up and I said, ''Dr. Koop, I am probably your No. 1 fan in this country. I have supported you, I have revered you, and now you have signed this advertisement in all these papers saying that you are opposed to my amendment.'' He says, ''What amendment?'' I said, ''The amendment with which we are trying to close this loophole.'' He said, ''I did not know that was what it was all about.''

Well, on December 3, a Journal of Commerce appeared about Dr. Koop. ''In a brief interview, Dr. Koop said he did not know the details of the lobbying campaign by Glaxo-Wellcome when he agreed to lend his name to what was described to him as an effort to preserve patent drugs from foreign piracy.'' In fact, the lobbying was an effort by a British drug company to retain an inadvertent million-dollar loophole in last year's trade bill at the expense of generic drug companies. Dr. Koop said he was unaware that a general statement he had made on patent rights would be used in the Glaxo campaign. When asked by a reporter if he had been done a disservice by Glaxo officials, Dr. Koop responded, ''I would have to say I was,'' and expressed regret that he had ever been involved in the fight over Glaxo's loophole.

Madam President, I have heard my very good friend from Utah talking about all of the research dollars that are being expended to find all of these cures for all of the problems and ailments and diseases that we have today. I want to compliment the pharmaceutical companies for doing a wonderful job. They are second to none in the world.

But, Madam President, I do not think we need to shed any crocodile tears for the company Glaxo. One, it is the biggest drug company in the world, and when the Glaxo research was done on Zantac alone, which was over two decades ago—and they have had patent protection, no competition whatever for a period of 17 years, no competition, Madam President—when that research was done, not only was most of it done by NIH and farmed out to universities throughout the educational system across the land, but taxpayers' dollars helped dramatically in finding the research and the answers that this particular drug/pharmaceutical was intended to cure.

Let's don't shed too many crocodile tears when we are talking about research. First, Glaxo is probably much like the other drug companies. They are spending more today to market and advertise their drugs than they are to research the new—as they say, blockbuster—drug breakthroughs. They are spending more now for marketing than they are for research.

Let's look at Glaxo itself, and at the pretax profits for the last 12 months: $3.3 billion—not millions of dollars, but $3.3 billion. And much of this came from the best-selling drug in the world today, Zantac, which, unless we close this loophole, we are going to provide further protection from competition.

Madam President, we have also heard a lot of discussion about patent rights and intellectual property rights. Let me once again refer, as I have in the past and as Senator CHAFEE has, to a letter that I received, or actually Senator CHAFEE received.

I think I received an identical letter, dated September 25, in which our U.S. Trade Representative, Ambassador Mickey Kantor, said, ''This provision [the transition rules] were written neutrally because it was intended to apply to all types of patentable subject matter, including pharmaceutical products. Conforming amendments should have been made to the Federal Food, Drug, and Cosmetic Act and section 271 of the Patent Act, but were inadvertently overlooked.''

That is a direct statement, Madam President, from our trade Ambassador who negotiated the GATT Treaty and who is there to protect not only our patent rights but also our intellectual property rights.

Madam President, I am going to reserve the balance of my time. I look forward to hearing additional statements from my colleagues.

Mr. SMITH. I yield whatever time the Senator from Utah consumes.

Mr. HATCH. I do not know why some on the other side said that Dr. Koop said he was sorry he was ever involved. Dr. Koop's letter, dated November 30, makes it very clear he wants to be involved, that this is an important issue. Here is the letter he wrote.

I know Dr. Koop as well, if not better, than anybody in this body. I was the one who, as ranking member on the Labor and Human Resources Committee, fought for his nomination through a full 9 months, if my recollection serves me correctly. I am very close to him.

I did not ask Dr. Koop to write this letter. He voluntarily wrote the letter. Anybody who reads that letter and thinks there is an argument on the other side, just does not enjoy good reason. Dr. Koop is extremely clear. I think he probably would not appreciate being misrepresented.

Now, with regard to congressional intent, the Federal Circuit Court of Appeals backs my position. It says:

> The parties have not pointed to and we have not discovered any legislative history on the intent of Congress at the time of passage of the URAA regarding the interplay between the URAA and the Hatch-Waxman Act. Therefore, we limit our inquiry to the actual wording of the statute.

That is a Federal Circuit Court of Appeals, the court that has the expertise to decide these issues. I do not think anybody can doubt for a minute that the arguments I have made do not have legal backing, legislative backing, and good, commonsense backing, because they do.

Recently, a Federal district court, as I mentioned before, reviewed the relevant provisions of law and concluded, ''This was no more a windfall to the''—and he names the pioneer firms which include Glaxo—''then the windfall that benefited many patent holders when the 17-year term of patents was extended to 20 years.'' No more of a windfall now than that was then.

I might add that it is not a windfall because, in all honesty, the generic drugs will benefit greatly and have benefited greatly from the pioneer companies' development of these blockbuster drugs like Zantac.

Many believe this debate is prompted by the patent status of one drug, Zantac. I do not know if that is true or not. It has certainly been a tremendously successful drug which has literally helped millions of people and would not have been developed if the logic of the other side had been adopted years ago.

One of the facts that has been obscured in this debate is that, ironically, this patent has never been extended. Let me give the facts on this drug. Keep in mind it takes up to 12 years, between $359 million and a half billion dollars to put a drug like Zantac through.

Here are the facts: the patent application for Zantac was submitted July 5, 1977. That patent was issued December 5, 1978 and an investigational new drug application was filed with FDA on December 3, 1979. On June 9, 1983, 3½ years after initial submission to FDA, more than 6 years after the patent application was made, the drug was approved.

Upon approval, this product only had an effective patent term of about 12.5 years on the day that FDA approved this product.

Now, the concern that the regulatory review period at FDA was eating substantially into the patents of new drugs was a major motivating force behind the Waxman-Hatch Act.

The Food, Drug and Cosmetic Act specifies that the drug review period is 180 days. But this, as in the case of Zantac, is virtually never met by the FDA. In fact, to the contrary, it takes years to get these drugs through, at a tremendous cost.

Only because Zantac was approved about a year earlier than the Hatch-Waxman law was passed, it was not eligible for the patent term extension part of the bill.

In other words, it was an unfortunate fact that it did not benefit from the Hatch-Waxman bill. Had Zantac been approved after Hatch-Waxman was enacted, it could have been qualified for patent extensions that this law calls for and provides.

So, Zantac, a loser under Hatch-Waxman because it could not qualify for the patent extensions that have been routinely granted as a matter of congressional policy since 1984, is now under sharp criticism for trying to take advantage of the same benefit that millions of patent holders were accorded under GATT.

Not only is this ironic, it does not strike me as fair, that a product with only 12.5 years of effective patent life, which expected to have 17 years upon FDA approval, is being castigated as somehow ''unfairly'' manipulating the patent system.

Even under the GATT transition rules, Zantac will receive much less than the 17-year patent life that it was supposed to receive.

Yet, here we face suggestions that it is greedy for a patent holder to want to take full advantage of its patent.

The proponents of the amendments are circulating talking points that state:

But the Waxman-Hatch amendments did a second thing: They gave brand companies a 5-year patent extension. In other words, Glaxo can receive up to 25 years of patent protection under current law. And now this company receives the GATT patent protection as well. It is trying to block the generic competition Congress calls for in the GATT treaty.

Now, let us just be honest about it.

That information has been sent out to people here in Congress as though it were true.

In fact, the statement is misleading in several ways.

First, let us be clear that Zantac, as a pre-Hatch-Waxman product, did not qualify for any of the benefits of Hatch-Waxman.

Second, to suggest that a company can receive up to 25 years of patent protection under current law is not only misleading, it is false.

It would seem to me that the normal patent term will have to be a period of something less than 20 years, unless you make the unlikely assumption that the Patent Office approves the patent on the day the application is submitted.

Also, since Hatch-Waxman time is only calculated after a patent issues, I do not see how you can ever reach 25 years, even hypothetically.

I would welcome an explanation of this 25-year period. I think every patent lawyer in the country would be just fascinated with it, if it could be given.

It is also the case that many believe the biotechnology patents are among those that might actually routinely lose time under the new 20-year-from-time-of-filing rule established by GATT.

This is because these products often present difficult, novel issues of patentability.

I cite with particularity that joint hearing between the two intellectual property committees of the House and Senate, where Lita Nelsen, Director of the Technology Licensing Office of the Massachusetts Institute of Technology, said:

The 20-year-from-filing change proposed in the current bill runs the risk of substantially reducing the patent protection available for companies investing in university technology.

She goes on to say:

Any shortening of patent life most seriously impacts the most forward-thinking technologies, which are the very types of technologies which universities should specialize in and which we believe will most benefit the country's future technical and economic development.

The 20-year-from-initial-filing rule currently being proposed offers a significant danger of shortening the time available for patent protection and therefore may have a detrimental effect on development of university technologies.

She also goes on to say:

Also, leading-edge technology patents, such as those in biotechnology, software and microelectronics usually take significantly longer than the so-called average patent to issue.

She concludes:

Finally, no one should be led to believe the 20-year-from-filing rule will lengthen effective patent life. Most of the time, for high technology patents, it will shorten the life and, more importantly, will shorten the remaining life of patent protection after the long development period is finally over and products are on the market.

The fact is this. Zantac has never had a patent extension until the GATT transition rules, because it did not—it simply did not—qualify under the Hatch-Waxman statute.

So, to indicate that it is going to reap the benefits of some sort of windfall is not only a misrepresentation, but it ignores several significant facts. It ignores all of the research costs which go into the pharmaceuticals we use. It ignores all of the incentives for research which must be a part of our intellectual property laws. It ignores all of the balancing we did in the 1984 law in order to accommodate the interests of these two great industries.

At the same time, it attacks our international agreements for which we fought so hard for decades, as reflected in the GATT agreement and Uruguay Round agreement. It does this in a way that sends a signal to all those countries that do not believe in patents or have difficulties with our position on patents that they do not have to honor it. It shows that the United States is not serious about this agreement either.

The fact of the matter is this: There are winners, there are losers in the Hatch-Waxman Act. There are winners and there are losers in GATT, and everybody knew it.

Now we have one industry that has been given special privileges, privileges that I personally have helped them to get, coming in and saying we want more special privileges and we want to amend the very act that benefited them and created their industry.

Frankly, I do not think that what specific company benefits and what company does not should be our focus here. Our focus should be on the right thing to do, which is to uphold GATT and vote down the Pryor amendment.

I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The time of the quorum would be charged to both sides equally? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. PRYOR. Madam President, may I inquire as to how many minutes I have left?

The PRESIDING OFFICER. The Senator has 5 minutes 43 seconds.

Mr. PRYOR. Thank you, Madam President.

Madam President, this debate is coming to conclusion at long last. We are about to make a tentative decision on this matter.

Let me say to my colleagues, Madam President, that somehow or another, sooner or later, we have to correct this problem. We have to close this loophole. If we fail to table the second-degree amendment, sometime or another I am going to be back. I want my colleagues to know that this is not the last they will hear of this amendment and this issue, because I think it is so absolutely atrocious that this could happen, is happening, and that we have yet not closed this loophole. Like MacArthur, Madam President, I shall return.

This has been a fascinating debate. It has lasted 2½ hours, about as long as a typical Senate hearing would last. And now, at the end, we see the facts have not changed. They have not changed at all. Those facts are as follows: the Congress made a mistake and we have a very rare opportunity to correct that mistake.

Let us look now at who is on the side who thinks that we made a mistake and who believes that we should rectify that mistake.

First, our U.S. Trade Representative, Mickey Kantor, said that Congress made a mistake, that it was never intended that these drug companies would be given this extra amount of unearned protection to market without any competition. The Food and Drug Administration said the Congress made a mistake. FDA tried to rectify the situation but they failed, and it is too bad that they did. Our U.S. Patent Office said that a mistake has been made by implication, and their decision was taken to court. Because of the technical aspects of the language, the Patent Office was overruled.

If we review the CONGRESSIONAL RECORD we will find that at no time during the debate on the issue of the GATT Treaty, leading to the adoption of the GATT Treaty, at no place do we find reference to this issue by anyone—not by any of the drafters or the debaters, nor by those opposed to or in favor of that treaty. At no time did anyone even hint that we were going to carve out a special exception for a few drug companies in order to give them extra monopolistic opportunities to compete unfairly in the marketplace, and to keep generic drugs from competing.

The State Medicaid directors, Madam President, have written in support of our efforts. They say that unless we correct this loophole, the Medicaid programs in each of the 50 States are going to continue to suffer and pay the highest price for these particular drugs, especially Zantac, and will be kept from buying generic drugs for the poorest of the poor population.

The elderly, the consumers—none will benefit from the efforts of the generic drug companies to reduce the cost of drugs like Zantac by as much as 50 percent or 60 percent. Yet, we may be about to vote and say that we are going to continue to give these enormous profits, these windfall profits, to a few pharmaceutical companies, and to take those profits, to give them those profits at the expense of taking those dollars from the consumer and the taxpayers of America.

This amendment that we are about to vote on is very simple. It is an attempt to kill our desire to close this loophole. That is what it is.

I respect my colleagues who offer it. I realize that some may believe that this particular issue is complex. But I must say, as my colleagues have said, that this is, in fact, a very simple issue. We have made a mistake. And now it is time to rectify it.

Madam President, I have frequently used the following analogy: You are walking down the street on the sidewalk, or wherever, and find a billfold, and you open that billfold up. And there is a $100 bill in there, and there is also the name of the owner. Do you take that billfold and the $100 to the owner? Do you try to find the lawful and rightful owner of that billfold that contains the $100, or, do you put it in your pocket?

In this case, these drug companies have found a billfold. It has a lot of money in it. Rather than returning it to the rightful owner—the taxpayer and the consumer, in this case—Madam President, they are taking that billfold, they are taking the money, and they are putting it right in their pocket.

I urge the defeat of the second-degree amendment.

Mr. HATCH. Madam President, if we want a cure for Alzheimer's, or for AIDS, or for so many other dreaded diseases, we had better not undercut the patent process.

We had better not undercut the GATT process.

If we want free and fair trade throughout this world, we had better make sure that we do not undercut something we fought to obtain for so many years.

If we want to keep America's medical research base premier among world nations, and continue to bring forth promising technologies which help our senior citizens and so many others, this body should vote down the Pryor amendment.

It would send our world trading partners the wrong message, and in the end put a huge dent in what is already a well-functioning system that benefits both the research company and the generic companies in a fair way.

That is what is involved here.

Let me just say one other thing.

I commit here and now that we will hold hearings on this should the amendment of the Senators from New Hampshire and Ohio pass.

We will hold hearings on this issue before the end of 120 days. I will commit to that as chairman of the Judiciary Committee, and I do not think anybody doubts in this body that I will not live up to that commitment, because I will.

I think that is the way we should handle it and I hope my colleagues will vote against the motion to table.

Mr. SMITH. Madam President, is there any time remaining?

The PRESIDING OFFICER. There are 29 seconds.

Mr. SMITH. Madam President, let me just say that no matter what the pros and cons are of this amendment it is irrelevant to the issue at hand. Regardless of how you feel about GATT or the patent protections, let us not load this historic bill up with this controversial unrelated amendment.

I urge my colleagues to vote ''no'' on the motion to table.

Mr. PRYOR. Madam President, I ask unanimous consent that Senator DASCHLE, Senator LEAHY, Senator BRYAN, and Senator FEINSTEIN be added as original cosponsors of my amendment.

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

Mr. PRYOR. Madam President, I move to table the pending amendment, the second-degree amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas to lay on the table the amendment of the Senator from Ohio. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON (when his name was called). Present.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 594 Leg.]

YEAS—48

Akaka	Exon	Levin
Baucus	Feingold	Lugar
Bingaman	Feinstein	McCain
Bond	Ford	Mikulski
Boxer	Glenn	Murray
Bradley	Graham	Nunn
Breaux	Hatfield	Pressler
Brown	Heflin	Pryor
Bryan	Inouye	Reid
Bumpers	Jeffords	Robb
Byrd	Kassebaum	Rockefeller
Chafee	Kennedy	Roth
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Snowe
Dorgan	Leahy	Wellstone

NAYS—49

Abraham	Cochran	Domenici
Ashcroft	Coverdell	Faircloth
Bennett	Craig	Frist
Biden	D'Amato	Gorton
Burns	DeWine	Gramm
Campbell	Dodd	Grams
Coats	Dole	Grassley
Gregg	Lautenberg	Shelby
Harkin	Lieberman	Smith
Hatch	Lott	Specter
Helms	Mack	Stevens
Hollings	McConnell	Thomas
Hutchison	Moseley-Braun	Thompson
Inhofe	Murkowski	Thurmond
Johnston	Nickles	Warner
Kempthorne	Pell	
Kyl	Santorum	

ANSWERED ''PRESENT''—1

Simpson

NOT VOTING—1

Moynihan

So the motion to lay on the table the amendment (No. 3088) was rejected.

AMENDMENT NO. 3082 WITHDRAWN

Mr. PRYOR. Mr. President, if I may have just a few seconds, I know this was a very hard vote, a very close vote. I want to compliment those on the opposing side. They made a very, very strong argument, and they prevailed this evening. But I will make it possible for the Senate to revisit this issue in the very, very near future, Mr. President. I want to thank those who supported us, and at this time I withdraw my amendment.

AMENDMENT NO. 3085

The PRESIDING OFFICER (Mr. SANTORUM). The question recurs on the Brown amendment No. 3085.

Mr. BROWN. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. SMITH. Will the Senator yield for a unanimous-consent request?

Mr. BROWN. Yes.

UNANIMOUS-CONSENT AGREEMENT

Mr. SMITH. Mr. President, I have a unanimous-consent request here, and I think Members will be interested in hearing it.

Mr. President, I ask unanimous consent that following the disposition of the Pryor amendment, the following be the only amendments remaining in order and limited to the following time restraints: The Brown amendment No. 3085, 5 minutes equally divided; a Feinstein amendment, supporting current law, 35 minutes, 20 minutes under the control of Senator FEINSTEIN, 15 minutes under the control of Senator SMITH; a Brown limiting liability amendment, 15 minutes equally divided; a Smith affirmative defense amendment, 5 minutes equally divided.

I further ask that the votes be stacked to occur on or in relation to the above-listed amendments at the conclusion or yielding back of all time, and that prior to the votes, there be 4 minutes equally divided for closing remarks on the bill, with the votes occurring in the order in which they were debated, and following disposition of the amendments, the bill be advanced to third reading, and final passage occur, all without further action or debate.

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

Mr. SMITH. Mr. President, to recap for all Members, we expect two additional votes to occur within the next 40 minutes. That is the essence of it.

AMENDMENT NO. 3085

Mr. BROWN. Mr. President, the bill as it is now drafted creates a new cause of action and allows a variety of parties to bring suit against those who have been involved in the restricted prohibited abortion practice.

Among those allowed to bring suit is the father. Unfortunately, the bill does not now restrict which father can bring suit. Literally, someone who is the father of the fetus but has not acknowledged the child, has not married the woman, and has not supported the child in any way or any process can bring legal action and get a bonanza by suing the physician.

In my mind, to provide a financial benefit to someone who has fathered a child and not acknowledged it nor married the woman is a mistake. I don't think we ought to be about providing a new avenue of financial reward for a man who does not live up to his responsibilities.

The amendment is very simple. It restricts the fathers who can bring legal actions in this case to ones who have married the mother.

Mr. President, I think it is a pretty straightforward amendment. I yield the floor. I believe this has been cleared on both sides. I think a voice vote may well be appropriate.

Mr. SMITH. The Senator from Colorado is correct. As far as I know, there is no objection on this side, and I do not believe there are any objections on the other side.

Mrs. BOXER. Mr. President, that is right. I applaud the Senator for this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3085) was agreed to.

Mr. BROWN. I move to reconsider the vote.

Mr. SMITH. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3090

(Purpose: To limit liability under this act to the physician performing the procedure involved)

Mr. BROWN. Mr. President, I rise to offer an amendment and ask for its immediate consideration

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 3090.

Mr. BROWN. 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 6, strike ''Whoever'' and insert ''Any physician who''.

On page 2, line 10 strike ''As'' and insert ''(1) As''.

On page 2, between lines 13 and 14, insert the following:

''(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions. *Provided, however,* That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

Mr. BROWN. Mr. President, this particular amendment was allowed 15 minutes equally divided. I do not intend to take a significant amount of time with it. I do want to make it clear to the Members what is involved.

The current bill makes liable or potentially liable not only for the attending physician in this case but also, in reading the language of the bill, the hospital where the procedure took place. Both could be subject to civil and criminal actions. Also included could be the nurses, as well other people called in to help with other medical procedures that may stem from the abortion procedure. In my mind, to have hospital administrators, to have hospital trustees, to have hospitals themselves, to have nurses, to have other medical personnel who may be called in to assist if something goes wrong, subject to possible prosecution and civil liability is a great mistake. This amendment limits the liability, and limits the people who can have actions brought against them to the physician or to someone who takes the place of the physician such as the person who directs the abortion procedure.

Specifically, we are trying to get at the person who performs the abortion itself. The whole purpose of this is to make sure that nurses and other attending personnel who are not the decisionmakers here are not subject to civil and criminal liability.

Mr. President, I believe the amendment is fairly clear. I believe it is cleared on both sides. My hope is at the appropriate time we could have a rollcall vote on it.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BROWN. I yield the floor.

Mrs. BOXER. Mr. President, I want to say to my friend from Colorado I intend to support his amendment.

I believe it is tragic that we are about to criminalize a medical procedure which many doctors say is necessary to save the life of a woman or to protect her from serious adverse health consequences. I think it is tragic we are going to put doctors through this Kafkaesque expense of winding up in prison for saving the life of a woman.

However, what the Senator from Colorado is pointing out to us, as currently written, we might wind up putting other people in jail—other people associated with the hospital, other people who clearly should stay clear of this.

Although I believe the underlying bill is leading us down a terrible path where we are going to haul doctors into prison for saving a woman's life, I certainly believe what the Senator is doing to at least narrow it to the doctor is something we should support.

I will be supporting his amendment. I yield the floor.

Mr. SMITH. We have no objection to the Brown amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, the Chair would advise the Senator the yeas and nays have been ordered.

Mr. BROWN. Mr. President, I ask unanimous consent to vitiate the request for the yeas and nays.

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

The question is on agreeing to the amendment.

The amendment (No. 3090) was agreed to.

Mr. SMITH. I move to reconsider the vote.

Mrs. BOXER. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3091

(Purpose: To strike the affirmative defense)

Mr. SMITH. Mr. President, I say to the Senator from California who is waiting to go on her amendment, briefly I will do the affirmative defense amendment and then be ready for her amendment.

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 New Hampshire [Mr. SMITH] proposes an amendment numbered 3091.

Mr. SMITH. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 3, strike lines 8 through and including 16.

Mr. SMITH. Mr. President, in view of the fact that the Senate adopted the life-of-the-mother exception amendment, the affirmative defense section of the bill is no longer necessary and I had agreed that we would remove that provision, providing the life-of-the-mother exception prevailed.

Since it did prevail, this amendment would strike the entire subsection E of the bill which talks about the affirmative defense to a prosecution or a civil action.

So, it is my understanding that the Senator from California agrees with this amendment, so unless the Senator wishes to speak, I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3091) was agreed to.

Mr. SMITH. I move to reconsider the vote.

Mrs. BOXER. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3092

(Purpose: To provide for a substitute amendment)

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk for Senator SIMPSON and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. SIMPSON, Mrs. BOXER, Mr. SIMON, and Ms. MOSELEY-BRAUN, proposes an amendment numbered 3092.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the United States has the most advanced medical training programs in the world;

(2) medical decisions should be made by trained medical personnel in consultation with their patients based on the best medical science available;

(3) it is the role of professional medical societies to develop medical practice guidelines and it is the role of medical education centers to provide instruction on medical procedures;

(4) the Federal Government should not supersede the medical judgment of trained medical professionals or limit the judgment of medical professionals in determining medically appropriate procedures;

(5) the Federal criminal code is an inappropriate and dangerous means by which to regulate specific and highly technical medical procedures; and

(6) the laws of 41 States currently restrict post-viability abortions.

(b) SENSE OF SENATE.—It is the sense of the Senate that Congress should not criminalize a specific medical procedure.

SEC. 2. RULE OF CONSTRUCTION.

Nothing in Federal law shall be construed to prohibit the States, local governments, local health departments, medical societies, or hospital ethical boards from regulating, restricting, or prohibiting post-viability abortions to the extent permitted by the Constitution of the United States.

The PRESIDING OFFICER. The Senator from California is recognized for 20 minutes. The Senator from New Hampshire is recognized for 15 minutes.

Mrs. FEINSTEIN. Mr. President, I want to make clear that this amendment is presented as a substitute.

I am pleased it was read because it makes clear the following: First, that it is the sense of the Senate that Congress should not criminalize a medical procedure.

Second, that nothing in Federal law should be construed to prohibit the States, local governments, local health departments, medical societies, or hospital ethical boards from regulating, restricting, or prohibiting postviability abortions to the extent permitted by the U.S. Constitution.

The U.S. Congress is not the appropriate place to be making decisions about medical procedures, whatever they are. The bill before us would criminalize one procedure, a procedure that does not appear in medical literature, a procedure that is worded vaguely.

All I ask is that the Members of this body read the actual legislation. Many Members who have spoken in favor of the legislation point to the use of scissors, the cutting of tissue, the draining of fluid from the brain. Nowhere does the legislation itself specifically refer to that kind of procedure. In its very vagueness, it affects more than one procedure and it can affect more than postviability abortions.

So, my point is twofold. One, that this body is not the appropriate place to be making medical decisions and that, two, under current Federal law, States can choose to regulate, restrict, or prohibit postviability abortions as 41 do now.

When physicians make a decision to use a particular treatment, they very thoroughly evaluate a number of factors: evidence from scientific literature, the risks and benefits for the patient—for example, possible side effects—future health, quality of life, the efficacy of the treatment—what the outcome will be—the safety of the treatment, the patient's preferences. These are often complicated decisions, representing a systematic strategy developing from multiple decisional building blocks. Medical decisionmaking is not simple and these are not decisions we should or can make.

We should also understand that medical decisionmaking is individualized. Every case is different. Every human body is different. Every patient brings a unique medical history into the doctor's office. Physicians have to evaluate every situation as it presents itself and often at the last minute.

The risks of a particular procedure depend, often, on the patient. For example, a hip replacement that restores function in one patient can be life-threatening to another, for example, to one who has heart disease. Medical science and treatments are constantly evolving. Medicine is becoming increasingly specialized. Technology is advancing. Today's standard of practice can be out of date in 5 years. The human body will always have some degree of mystery, as science stretches to understand how the body works and does not work. Congress cannot keep up with these changes. That is not our job.

Mr. President, physicians go to college for 4 years, to medical school for 4 years, to residency training for 3 to 6 years. In some States, to keep their licenses current, they are required to undergo continuing education annually. They get extensive training. Medical decisionmaking, I believe, is a job for trained physicians.

AN EXAMPLE OF DECISIONMAKING: MEDICAL PRACTICE GUIDELINES

For almost 60 years, the medical profession in this country has been developing medical practice guidelines. According to the Institute of Medicine, clinical practice guidelines are ''systematically developed statement to assist practitioner and patient decisions about appropriate health care for a specific clinical circumstances.'' They are guidelines—guidance—not enforceable rules. There are over 24,000 developed by over 75 organizations.

Medical practice guidelines are designed to improve patient outcomes. They help medical practitioners and patients make decisions about prevention, diagnosis and treatment of specific clinical conditions. For example, guidelines have been developed for the treatment of benign prostatic hyperplasia, pressure ulcers, and stroke rehabilitation.

Developing practice guidelines is a complicated process. To develop a guideline, panels of experts are convened. They review all available literature, all available evidence of patient outcomes, a review that can take up to 9 months. They are subjected to peer review for scientific validity and pilot testing. Development of one guideline can take from 1½ to 3½ years.

The point here is that there is an orderly, scientific, deliberative, professional, and balanced approach for making medical decisions. It is complicated. It is based on the patient's best interest.

Medical decisionmaking is not and should not be a legislative or political process.

UNPRECEDENTED

Congress has legislated medical benefits, reimbursement policies, quality standards, training requirements. But Congress has never banned or criminalized a specific medical procedure. This is the first time Congress has tried to outlaw a medical procedure.

My amendment is quite simple. It says, in essence, that Congress should not be making medical decisions and that States can regulate post-viability abortions.

I can go on, but in the interest of time, and giving my cosponsors the opportunity to speak, I want to just say one other thing. I have followed this debate very carefully. I want particularly to commend my friend and colleague, the junior Senator from California. I think she has been quite eloquent in defining what this procedure is, and what this procedure is not, the enormous vagueness of the bill and the human tragedies involved.

Post-viability abortions can be banned by every State and 41 have chosen to do so. This legislation is not necessary. This legislation puts the Congress in the position of deciding medical procedures, and I do not believe we can or should do this. This substitute amendment clearly states what I believe is right.

Mr. President, I yield 10 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 10 minutes.

Mr. SIMPSON. Mr. President, I rise in support of the Feinstein substitute

which is a reiteration of current law. Under the substitute, nothing in Federal law shall be construed to prohibit the States, local governments, local health departments, and medical societies from regulating, restricting, or prohibiting post-viability abortions to the extent permitted by the Constitution. Let me say it again, this is current law and this substitute explicitly states what the law of the land is. Under Roe versus Wade, States may proscribe post-viable abortions except when it is necessary to preserve the life or health of the mother—41 States currently regulate post-viable abortions. We do not need H.R. 1833 because we already have current laws which address the central issue of the pending legislation.

I have been pro-choice throughout my entire public life, never wavered, never waited to take a poll, ever since that first wrenching debate in the Wyoming State Legislature because our law was the same as Missouri's, which was struck down by Roe versus Wade. And so we had to change it, and we did, and I shall never forget the debate. Abortion is such a deeply personal and, to some, a spiritual issue. It is not one that belongs in the public domain. That is my view. It is not one that should be in a legislative body, to me, as a man—not a legislator, but a man, I cannot presume to limit the options of any woman who is anguishing over a crisis pregnancy. That is what I have always believed, and what I have always tried to state so clearly. And as a man, I do not think a man should even vote on this issue. That is how I feel about this.

I do not advocate or promote abortion. It is obviously one of the most difficult choices or options that any woman should ever, ever make. I really do not know many folks who advocate or promote abortion, nor does anybody else in this land. That is not what people do—promote abortion. It is an alternative. It is an option. It is obviously one of the most difficult choices or options that any man or women—sometimes men must make—buy principally the woman. I have always supported alternatives to abortion—and think it is so very important to assure a pregnant woman that there are many alternatives to abortion and that there are many fine support systems available for those who may choose any of the alternatives. And yes, yes, abstinence is still the best, and Who would disagree with that? But that is not what we are talking about.

And I respect and am acutely conscious of the fact that many persons who grapple with the issue of abortion do so from very different moral or religious or philosophical differences, and I do not spend any part of my life trying to inflict—and that is the word I want to use—inflict my personal views on others. I see that happening here. Not with the Senator from New Hampshire, a lovely friend, but from others, especially in the hallways, who do it with steely-eyed zealotry that I tire of.

My respect for this very real facet of the human condition has led me to the conclusion that abortion presents a deeply personal decision for any woman—decisions which should not and realistically could not be prescribed or directed through the legislative process in any way.

We in the Senate should never be criminalizing a specific medical procedure. That is what the substitute states.

So here we are overstepping court cases. There is a strong absence of Government interest in this legislation. It is not here. It purports to prohibit abortions using a particular procedure, and then says abortions will be performed only in a particular manner. There is no reasonable Government interest served by forcing a patient to undergo one type of abortion instead of another, especially if the prohibited procedure is safer for the health of the woman.

We in this Congress should not be legislating in this area. This is overreaching in every sense. Under this bill, it would remain legal. Get this—somebody has to really explain this to me. It would remain legal for a woman to obtain this procedure only if she did not cross State lines. This seems to me too clever by half. I thought this was the most horrendous, searing, murderous, vicious procedure that we have seen in modern times, and yet you are going to be able to do it in your own backyard, in your own State. That is absurd.

Now we have a new Federal court case, the Lopez decision. That is how they got clever by half on this one.

This bill also uses a term I have never before seen in the statute, and I have been doing this for 30 years. Anyone who knowingly performs a partial-birth abortion ''and thereby kills a human fetus.'' That is what it says. ''Abortion is thereby killing.'' On line 15 of the bill, the language reads, ''partially vaginally delivers a living fetus before killing the fetus.'' I have never seen that in my life in a statute. Where did it come from? It is a manifestation of a manipulative group trying to desperately knock off Roe v. Wade. That is what it is. It is exceptionally unclear about the precise nature of the procedure. Six doctors testified they never heard of the procedure before.

I sat and listened to that. I have seen all of the pictures before. We are going to have all of them—one-eyed children, brains on the outside, compressed skulls. I have seen it all. I have seen the whole works, always with the eternal difficulty of imposing restrictions on a decision which must be made from one's only very unique position, and principally by a woman, from one's own culture, one's own history, and one's own deep personal and spiritual viewpoint.

All through the years I have had the accolades sometimes of being called a baby killer. I really do not appreciate that. I handle it very well now. I just say, I do not have to take that guff from you. So I have been there.

In my fine State of Wyoming—and I am going to conclude my remarks within my limit—listen to what we have to do in this. It should not be partisan. And in our State, the Wyoming Republican Party passed a platform plank in 1994 at its State convention that said this: ''The Wyoming Republican Party welcomes individuals on each side of the abortion issue, encourages their open discussion, solicits their active participation in the party, and respects their positions and beliefs.''

Then, do you know what we did? We did a resolution because we had a November resolution on the ballot which was soundly rejected. Here is what it said: ''The Republican Party believes that Republicans are people of principle on each side of the abortion issue who firmly and intractably hold their beliefs; by establishing a party position, we recognize that a resolution will never change these beliefs, but it will serve to divide the party on other issues, and we urge all Republicans to firmly debate these beliefs.''

That passed unanimously by voice vote. We ought to do more of that in America. And men, in my mind, should never be in this intensely intimate personal struggle for a woman.

I urge my colleagues to vote in favor of the substitute.

Mr. JEFFORDS. Mr. President, I rise today in support of the amendment expressing the sense of the Senate that the Congress should not criminalize a specific medical procedure, and that the States should not be prohibited from regulating or restricting postviability abortions to the extent that the Constitution permits them to do so. I also want to state again my firm belief in the wisdom of the Supreme Court decision Roe versus Wade, which held that under the constitutional right to privacy, a woman has a right of self-determination with regard to her pregnancy and reproductive health.

In November I spoke in support of referring this bill to the Judiciary Committee for a hearing, and I'd like to thank my colleagues for joining me to support the passage of that motion. I think we learned a great deal from the hearing. One of the things that struck me was that the term ''partial birth'' is not a term that is clearly defined in the medical profession. This bill purports to be a very narrow measure that outlaws only one alternative to a woman who learns late in her pregnancy that it is not possible for her to carry her child to term. But we've learned that there is not a medical procedure known as a partial birth abortion. I suppose you can argue that those of us on this side of the issue shouldn't have a problem criminalizing a procedure that doesn't really exist. My response to that argument is predictable: why bother to criminalize a procedure that doesn't really exist?

Moreover, rules of statutory interpretation will demand that the courts find some meaning in this law, because Congress is assumed to do nothing in vain. Somehow, the courts will have to put some definition on the term ''partial birth abortion,'' even though a clear understanding of what we're outlawing has eluded many of us.

I'd like to quote briefly Dr. J. Courtland Robinson, who spoke at the hearing a couple of weeks ago and highlighted this point:

I have to wonder what you are really trying to ban with this legislation. It sounds as if you are trying to leave any later abortions open to question.

Dr. Robinson continues:

I know that a number of physicians who have performed abortions for years, who are experts in the field, look at this legislation and do not understand what you mean or what you are trying to accomplish. It seems as if this vagueness is intentional, and I, as a physician, cannot countenance a vague law that may or may not cut off an appropriate surgical option for my patients. Sometimes, as any doctor will tell you, you begin a surgical procedure expecting it to go one way, only to discover that the unique demands of the case require that you do something different.

Dr. Robinson highlights a point I've made many times before. We can't adequately define the procedure we mean to outlaw because we're not doctors. I share Dr. Robinson's fear that because this law is so vague and because we are denying doctors the ability to use their best medical judgment, physicians will be deterred from performing any late term abortion procedure. Late term abortions will be unavailable and women will die.

This is an unprecedented intrusion into the practice of medicine. In my view decency and common sense would require us to recognize that it is not the job of the Congress to come between physicians and their patients.

I also want to speak briefly in support of section two of Senator FEINSTEIN's amendment. I think her amendment is entirely consistent with the thinking in much of the legislation we have debated recently. On a number of matters we are choosing to leave regulation to the States; indeed, we are deregulating at the Federal level so that we may leave the States the flexibility to enact their own laws on welfare, Medicaid, and so forth. I must admit that it seems strange to me that in this area alone we are undertaking Federal regulation where there has been none. In doing so we are taking away from the States the right to legislate on this issue as they see necessary. In fact, we know that 41 of the States already have laws regulating access to post-viability abortions.

I have expressed before my support for the enduring wisdom of Roe versus Wade decision. I think Senator FEINSTEIN's amendment is consistent with that decision. In Roe, the Court found that under the constitutional right to privacy, a woman has the right to make her own decisions where her pregnancy and reproductive health are concerned—especially, the Court said, ''when her right to life is threatened.'' The bill we are now considering is a direct challenge to that historic decision's protection of a woman's life and health. Concern about a woman's life has been abandoned in the partial birth abortion legislation we've been discussing, but Roe versus Wade requires that even where a state chooses to outlaw post-viability abortions, it may not under any circumstances outlaw abortions necessary to preserve the life or health of the mother.

I will say again that I believe doctors must be able to put the welfare of their patients first. Doctors should be able to use whatever procedure will, in their professional judgment, be safest for the mothers, their patients. Toward this goal, I wholeheartedly support the sense-of-the-Senate amendment that Congress should not criminalize a specific medical procedure, and the rule of Construction permitting the States to regulate post-viability abortions to the extent permitted by the Constitution.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN. Mr. President, how much time remains?

The PRESIDING OFFICER. Six minutes and thirty seconds.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the following be added as cosponsors: Senator BOXER, Senator SIMON, Senator MOSELEY-BRAUN, and Senator BRYAN.

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

Mrs. FEINSTEIN. I yield the remainder of my time to the junior Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, Mr. President. I will be brief.

I want to thank the Senator from California for the amendment, and I am delighted to be a cosponsor of it.

Mr. President, this bill represents the first time, to my knowledge, that the Congress has attempted to tell a doctor that he or she cannot perform a specific medical procedure.

Let us be clear about what Congress is proposing to do with this legislation. We are proposing to criminalize a medical procedure against the recommendation of this Nation's OB-GYN's and against the recommendation of this Nation's 2.2 million registered nurses.

This bill arbitrarily prohibits one type of procedure even when the procedure best protects the life and health and fertility of a woman, a citizen of this country. If a woman has a late-term abortion, her decision relies on the best medical advice of the doctor, advice based on years of medical training and service.

None of us, or few of us in this body, have spent years studying and practicing medicine. How many of the Members of this body are physicians? We have only one doctor serving in the Senate, and he is not an OB-GYN. Are we qualified to make a medical judgment—a medical recommendation—that could leave a woman sterile, or severely ill, or, worse yet, dead? I think not.

I know, frankly, that if I were ill, or the Presiding Officer were ill, his family would take him to a doctor, not to another Senator, unless, of course, that Senator was a doctor, and there is only one of those.

The fact of the matter is that this is a medical decision, and the decision here that a woman makes regarding her pregnancy should be made with her family in consultation with her doctor and, of course, her faith.

Yesterday, I talked about this as an issue of fundamental liberty for female citizens. Let me submit to you that it is not only a matter of a woman's liberty and right to control her own body that is at stake with this legislation; it is also a doctor's right to treat—to treat his patient, and to treat his patient under very difficult circumstances indeed.

It seems to me that as we dabble around we are in the process of limiting the liberties of the unborn that have been spoken of will be born to. I think, Mr. President, that is a grievous error for which we will all have great regret.

I thank the Senator from California. The good news about this amendment is that it can improve what is a bad bill. The bad news about it, or maybe the good news about it, is hopefully medical science will overcome this situation. But, quite frankly, for the present we should not be dabbling where we have no knowledge, where we have no expertise, and in a way that will injure and jeopardize the health, safety, and indeed even the lives of millions of American women.

Thank you. I yield the floor.

Mr. President, I do not know if this letter has been made a part of the RECORD. I ask unanimous consent that it be printed in the RECORD. It is a letter dated November 6 from the American College of Obstetricians and Gynecologists in opposition to this legislation.

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

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, November 6, 1995.

Hon. ROBERT DOLE,
Majority Leader, The Capitol,
Washington, DC.

DEAR MAJORITY LEADER DOLE: The American College of Obstetricians and Gynecologists (ACOG), an organization representing more than 35,000 physicians dedicated to improving women's health care, does not support H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. The College finds very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, H.R. 1833 employs terminology that is not even recognized in the

medical community—demonstrating why Congressional opinion should never be substituted for professional medical judgment.

Thank you for considering our views on this important matter.

Sincerely,

RALPH W. HALE, MD,
Executive Director.

Mr. SMITH. Mr. President, so we all understand, the Feinstein substitute amendment is the killer amendment. It simply guts the bill. The earlier amendment was the Boxer amendment, which was defeated.

This amendment, no less than the Boxer amendment before it a short while ago, is the partial-birth abortion-on-demand amendment. And this amendment would totally eliminate the Partial-Birth Abortion Ban Act.

So if you support the bill, and you voted no on the Boxer amendment, you should vote no on the Feinstein amendment because it would replace the bill with current law. Current law is partial-birth abortion on demand—I might add, through all 9 months of pregnancy for whatever reason.

In other words, Mr. President, if you want to go back on what you voted for, what you support, the partial-birth abortion ban, then you would have to vote for Feinstein.

In essence and in conclusion, this is a gutting amendment. It goes back to current law. It just eliminates the entire bill.

For that reason, obviously, we oppose it, and I encourage all of those who voted no on Boxer who want the partial-birth abortion ban as described in our legislation to vote no on the Feinstein amendment.

At this point, unless my colleagues would like some of my time—I would be happy to yield it—I have no further desire for time.

Mrs. FEINSTEIN. I thank the Senator. I yield the time.

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

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

The question is on agreeing to the amendment.

Mrs. FEINSTEIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SMITH. Mr. President, I would just ask unanimous consent that Senator BROWN and I be allowed to do a brief colloquy on a matter that I neglected to mention and then we will vote.

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

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, this bill would expose physicians to criminal and civil liability for performing a partial-birth abortion, and I believe it is critical that we be very clear as to what is covered by the bill. The bill defines a ''partial-birth abortion'' as ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

It is my understanding that ''partially vaginally delivers'' means the person performing the abortion actively removes a portion of the fetus from the uterus, through the cervyx and into the birth canal. And I would ask the manager if this is his understanding as well?

Mr. SMITH. The Senator from Colorado is correct. ''Partially vaginally delivers'' means the physician delivers part of the baby through the cervyx and into the birth canal.

Mr. BROWN. At the Judiciary Committee hearing, Dr. Robinson, of the Johns Hopkins University, mentioned that it is possible for a portion of the fetus, such as a hand or foot, to slip accidentally through the cervyx and into the birth canal without active removal by the physician. I assume the manager does not intend to include those cases in the definition of partial-birth abortion. Am I correct?

Mr. SMITH. The Senator from Colorado is correct. This bill would only cover those circumstances where someone intentionally delivers part of a living baby through the cervyx and into the birth canal.

Mr. BROWN. The definition also states that it only applies to ''partial vaginal delivery of a living fetus.'' In other words, if the fetus had died before being partially removed from the uterus, this measure would not prohibit a physician from safely removing the dead fetus from the mother. Is that correct?

Mr. SMITH. The Senator is correct. That is correct.

Mr. BROWN. Finally, Mr. President, it is my understanding this bill applies only to those who knowingly perform a partial-birth abortion. In other words, a physician must intentionally partially deliver a living fetus and then deliberately kill the fetus to be subject to criminal or civil liability. For example, under this bill, if a doctor fully intends to deliver a living baby but due to an accident during delivery the fetus dies, the doctor would not be subject to criminal or civil liability. Is that correct?

Mr. SMITH. The Senator is correct.

Mr. BROWN. I thank the Senator for his time and particularly for what I think will be a helpful colloquy in being very specific as to what the words and terms used in the bill mean.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3092 offered by the Senator from California. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Alabama [Mr. SHELBY] is necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

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

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 595 Leg.]

YEAS—44

Akaka	Glenn	Mikulski
Baucus	Graham	Moseley-Braun
Bingaman	Harkin	Murray
Boxer	Hollings	Nunn
Bradley	Inouye	Pell
Bryan	Jeffords	Pryor
Bumpers	Kassebaum	Robb
Byrd	Kennedy	Rockefeller
Campbell	Kerrey	Sarbanes
Chafee	Kerry	Simon
Cohen	Kohl	Simpson
Daschle	Lautenberg	Snowe
Dodd	Leahy	Specter
Feingold	Levin	Wellstone
Feinstein	Lieberman	

NAYS—53

Abraham	Exon	Lott
Ashcroft	Faircloth	Lugar
Bennett	Ford	Mack
Biden	Frist	McCain
Bond	Gorton	McConnell
Breaux	Gramm	Murkowski
Brown	Grams	Nickles
Burns	Grassley	Pressler
Coats	Gregg	Reid
Cochran	Hatch	Roth
Conrad	Hatfield	Santorum
Coverdell	Heflin	Smith
Craig	Helms	Stevens
D'Amato	Hutchison	Thomas
DeWine	Inhofe	Thompson
Dole	Johnston	Thurmond
Domenici	Kempthorne	Warner
Dorgan	Kyl	

NOT VOTING—2

Moynihan	Shelby

So the amendment (No. 3092) was rejected.

Mr. SMITH. Madam President, I move to reconsider the vote.

Mr. GRAMM. I move to table the motion.

The motion to lay on the table was agreed to.

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

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. We now have 4 minutes of debate equally divided.

Mrs. BOXER. Madam President, I ask my colleagues if they could give me their attention for 2 minutes of what has been a very difficult debate. Just for 2 minutes.

I ask you to vote ''no'' on the final passage of this radical bill. It outlaws an emergency medical procedure which doctors have testified is used to save the life of a woman or to avert serious adverse health consequences.

A woman like this, Coreen Costello, who asks us to put aside our party affiliation and remember her. Despite

the other side saying she did not have the procedure outlawed in this bill, she did. She wrote us and told us that today and she testified that she did.

My colleagues, I am down to the last 60 seconds. This is what Coreen Costello said. Please listen:

When families like ours are given this kind of tragic news the last people we want to seek advice from are politicians. We talk to our doctors, lots of doctors. We talk to our families and other loved ones, and we ponder long and hard into the night with our God.

Coreen asks us to vote against this bill.

It will deny women a life saving and health saving option in a tragic emergency situation. You would not do it to your own wife. You would not do it to your own daughter. I ask you, please, do not do it to America's wives and to America's daughters.

There is no true life exception. It was a partial exception. It was different than the normal Hyde language. So this is indeed a radical proposal. Please vote ''no'' on final passage. President Clinton will veto this bill.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 2 minutes.

Mr. SMITH. Madam President, the House of Representatives recently voted overwhelming by a two-thirds majority to ban partial-birth abortion. The vote on the ban was 288–139.

This is not a radical extreme bill. It was supported by liberal Democrats such as PATRICK KENNEDY; liberal Republicans, moderate Republicans, such as SUSAN MOLINARI; pro-choice, prolife. It is not a radical bill. RICH GEPHARDT supported it and others.

We have added a life-of-the-mother exception which was requested by some of my colleagues on both sides of the aisle. We did that. I hope we can get a similar, bipartisan overwhelming majority here in the Senate like we had in the House to stop what I believe is a very cruel practice.

Let me conclude on this point, because Senator BOXER and I have been debating this on and off for several days now. The photograph that is being displayed here is of a woman who went through a terrible ordeal. We all know that. We have great sympathy for what she went through. But she did not have the partial-birth abortion. She did not have a partial-birth abortion. This would not have stopped the procedure that Coreen Costello had.

I urge my colleagues to vote for final passage. I yield the floor.

The PRESIDING OFFICER. All time has expired.

The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

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

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 596 Leg.]

YEAS—54

Abraham	Exon	Lott
Ashcroft	Faircloth	Lugar
Bennett	Ford	Mack
Biden	Frist	McCain
Bond	Gorton	McConnell
Breaux	Gramm	Murkowski
Brown	Grams	Nickles
Burns	Grassley	Pressler
Coats	Gregg	Reid
Cochran	Hatch	Roth
Conrad	Hatfield	Santorum
Coverdell	Heflin	Shelby
Craig	Helms	Smith
D'Amato	Hutchison	Stevens
DeWine	Inhofe	Thomas
Dole	Johnston	Thompson
Domenici	Kempthorne	Thurmond
Dorgan	Kyl	Warner

NAYS—44

Akaka	Glenn	Mikulski
Baucus	Graham	Moseley-Braun
Bingaman	Harkin	Murray
Boxer	Hollings	Nunn
Bradley	Inouye	Pell
Bryan	Jeffords	Pryor
Bumpers	Kassebaum	Robb
Byrd	Kennedy	Rockefeller
Campbell	Kerrey	Sarbanes
Chafee	Kerry	Simon
Cohen	Kohl	Simpson
Daschle	Lautenberg	Snowe
Dodd	Leahy	Specter
Feingold	Levin	Wellstone
Feinstein	Lieberman	

NOT VOTING—1

Moynihan

So the bill (H.R. 1833), as amended, was passed.

Mr. SMITH. Madam President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. BINGAMAN. Madam President, I wish to state a couple of questions and ask for the majority leader's response, if I could, at this time.

Madam President, I know that there has been an agreement worked out with regard to the voting on the nominations and on the START II Treaty. I know that yesterday we had another discussion on the Senate floor, and the majority leader referred to his intention to, also in addition to the nominations for ambassadors, clear the rest of the items on the Executive Calendar before we left.

I just wanted to once again ask for his assurance that that is his desire and his intention before we adjourn this fall.

Mr. DOLE. Madam President, if the Senator will yield, I will just say, as I did yesterday, that it is certainly my hope that we can clear everything on the Executive Calendar before we leave this year.

I cannot give a 100 percent guarantee. Somebody might have a hard hold on something. They may not be able to get it up, and we might not be able to get cloture. But my view is we ought to accommodate where we can the executive branch, and I have always tried to do that.

Mr. BINGAMAN. I appreciate that very much. I certainly agree that that is an important thing to do.

The other issue I wanted to clarify is that the agreement calls for us to proceed to consider START II before we go out of session this year. Yesterday, again the majority leader said that it was his intent that we complete action on START II. I think it is very important that we do that.

Again, I would just ask if it is his view that we can go ahead and get that treaty voted on and sent on before we go off on the holidays.

Mr. DOLE. Again, let me indicate that I hope to take it up before Christmas. I would like to complete action before Christmas. If not, we will do it as quickly as we can when we are back here.

But I think we need to take a look at the calendar. A week from today will be the 15th. One week later is the 22d. Next week we have this State Department reorganization, Bosnia, and rangeland reform. Again, it is a question of whether we can do it.

I am advised by the distinguished chairman of the Foreign Relations Committee that he does not know of any amendments to the START II Treaty. There may be amendments. But it may not take more than a couple of hours.

So, certainly, I would like to dispose of it before we leave from here this year. We will make every effort to do so.

Mr. BINGAMAN. Madam President, let me just say that I appreciate the fact that we do have an agreement in this unanimous-consent agreement to bring it up before we conclude the session and move to the consideration of it.

I am encouraged by the statement and by the indication of the Senator from North Carolina, the chairman of the Foreign Relations Committee, that he thinks we can move to it very expeditiously.

I appreciate the majority leader's very good work on the issues. I appreciate the Senator from North Carolina, and I also, of course, appreciate the Senator from Massachusetts, who I know has worked very hard to get this agreement and, of course, the Democratic leader as well.

So thank you all.

I no longer object to proceeding on the flag amendment. I know the majority leader intends to do that tomorrow.

I have no objection.

UNANIMOUS-CONSENT AGREEMENT—SENATE JOINT RESOLUTION 31

Mr. DOLE. If there is not, I ask at this time then that the cloture vote scheduled for Friday be vitiated, and I

now ask unanimous consent that at 10 a.m. on Friday, December 8, the Senate turn to the consideration of Senate Joint Resolution 31, the constitutional amendment concerning the flag desecration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOLE. I further add that there will not be any votes tomorrow. There will be debate tomorrow. Then tomorrow, if we can reach an agreement for Monday, there may be two or three amendments to Senate Joint Resolution 31.

If we can agree on the amendments and final passage, then we could do that on Tuesday morning. There would be no votes on Monday. If we cannot agree, then there will be no votes before 6 o'clock on Monday. But I think we can agree. We have had a discussion between the two leaders.

Finally, I would say there are a couple of colloquys that Senator DASCHLE and I were going to enter into, and I think I pretty much responded to the one on START. The others I think can be printed in the RECORD at the appropriate point if we initial each.

Is that satisfactory with the managers?

I thank the Senators.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. We have reached the point now this evening that we could have reached back in August, but better late than never.

UNANIMOUS-CONSENT AGREEMENT

Mr. HELMS. Madam President, I ask unanimous consent that following the disposition of H.R. 1561, as amended, the Senate then proceed immediately, without intervening action or debate, to executive session to consider the following list of nominations, and if the nominations are not on the Executive Calendar at that time the Foreign Relations Committee be discharged from further consideration of these nominations, and the Senate proceed to their consideration en bloc; that they be confirmed en bloc, the motion to reconsider be laid on the table, and the President be immediately notified of the Senate's action, and the Senate then resume legislative session; that if the nominations are on the calendar at that time, they still be considered and confirmed in accordance with the above provisions.

Now, the list of nominations I shall send to the desk, and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Mr. A. Peter Burleigh, of California, to be Ambassador to the Democratic Socialist Republic of Sri Lanka, and to serve concurrently and without compensation as Ambassador to the Republic of Maldives;

Mr. James Franklin Collins, of Illinois, to be Ambassador at Large and Special Advisor to the Secretary of State for the New Independent States;

Ms. Frances D. Cook, of Florida, to be Ambassador to the Sultanate of Oman;

Mr. Don Lee Gevirtz, of California, to be Ambassador to the Republic of Fiji, and to serve Concurrently and without additional compensation as Ambassador to the Republic of Nauru, Ambassador to the United Kingdom of Tonga, and Ambassador to Tuvalu;

Mr. Robert E. Gribben, III, of Alabama, to be Ambassador to the Republic of Rwanda;

Mr. William H. Itoh, of New Mexico, to be Ambassador to the Kingdom of Thailand;

Mr. Richard Henry Jones, of Nebraska, to be Ambassador to the Republic of Lebanon;

Mr. James A. Joseph, of Virginia, to be Ambassador to the Republic of South Africa;

Ms. Sandra J. Kristoff, of Virginia, for the rank of Ambassador as U.S. Coordinator for the Asia Pacific Economic Corporation;

Mr. John Raymond Malott, of Virginia, to be Ambassador of Malaysia;

Ms. Joan M. Plaisted, of California to be Ambassador to the Republic of the Marshall Islands, and to serve concurrently and without additional compensation as Ambassador to the Republic of Kiribati;

Mr. Kenneth Michael Quinn, of Iowa, to be Ambassador to Cambodia;

Mr. David P. Rawson, of Michigan, to be Ambassador to the Republic of Mali;

Mr. J. Stapleton Roy, of Pennsylvania, to be Ambassador to the Republic of Indonesia;

Mr. Jim Sasser, of Tennessee, to be Ambassador to the People's Republic of China;

Mr. Gerald Wesley Scott, of Oklahoma, to be Ambassador to the Republic of the Gambia;

Mr. Thomas W. Simons, Jr., of the District of Columbia, to be Ambassador to the Islamic Republic of Pakistan;

Mr. Charles H. Twining, of Maryland, to be Ambassador to the Republic of Cameroon;

FSO Promotion List, Barrett, et. al;

FSO Promotion List, Gelbard, et. al;

FSO Promotion List, Goddard, et. al;

FSO Promotion List, Peasley, et. al.

Mr. HELMS. I thank the clerk.

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

Mr. HELMS. I further ask unanimous consent that immediately following the resumption of legislative session, the Senate insist on its amendment to H.R. 1561, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees. Further, as in executive session, I ask unanimous consent that on a date to be determined by the majority leader, after consultation with the Democratic leader, but in any case no later than the last day of the first session of the 104th Congress, 1 hour after the Senate convenes, the Senate proceed to executive session to consider the START II treaty; that if the committee has not reported the treaty by that time, the treaty be discharged from committee and the Senate proceed to its immediate consideration.

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

Mr. HELMS. I thank the Chair.

I further ask unanimous consent that immediately after the Chair appoints the conferees on H.R. 1561, the Chair then lay before the Senate the message from the House on H.R. 927, the Cuban Liberty and Solidarity Act; that the Senate insist on its amendment, agree to the request for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

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

NOMINATION OF KATHLEEN A. McGINTY

Mr. DASCHLE. Mr. President, it is my understanding that the majority leader has committed to the consideration of and final action on Executive Calendar Nomination No. 340, Ms. Kathleen A. McGinty to be a member of the Council on Environmental Quality before the Senate completes its business this session am I correct in that understanding?

Mr. DOLE. Yes. I have committed to final disposition before Christmas.

Mr. DASCHLE. I thank the majority leader for that commitment.

UNANIMOUS-CONSENT AGREEMENT — CHEMICAL WEAPONS CONVENTION

Mr. HELMS. Madam President, I further ask unanimous consent that if the Chemical Weapons Convention has not been reported by the close of business on April 30, 1996, that convention be discharged from the Foreign Relations Committee and placed on the Executive Calendar.

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

Mr. HELMS. I thank the Chair.

Mr. DASCHLE. Mr. President, I understand the majority leader's difficulty in long-term planning of the Senate schedule, but I ask the majority leader if it would be his intention to schedule consideration of the Chemical Weapons Convention in a reasonable time after it has been reported or discharged from the Committee?

Mr. DOLE. It would be my intention that the Senate would consider the Convention in a reasonable time period once the Convention is on the Executive Calender.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, it will be my intention to review for the record briefly the summary as agreed upon of the amendment to H.R. 1561. Before I do, however, I would like to inquire of the chairman the following.

Madam President, a number of Members from the Senate on both sides of the aisle have been very concerned, and the ranking member shares this concern, about the disposition of the Chemical Weapons Convention which was submitted to the Congress many months ago, and since that time it has been pending before the Foreign Relations Committee.

I would like to ask the chairman concerning the Chemical Weapons Convention. I am aware that the committee's consideration of this treaty is not as far along as the consideration of

START II and that several members of the committee have a number of questions about it and its implications that they believe must be explored more fully before they are prepared to act on the treaty.

I ask the chairman if he would describe his commitment to the committee and the Senate on action on the Chemical Weapons Convention.

Mr. HELMS. Madam President, I am happy to respond to the inquiry by the distinguished Senator from Massachusetts.

He has correctly stated that I and several other members of the committee have what we believe to be critical unanswered questions concerning the implications of the Convention on Chemical Weapons coming into force and whether the treaty is in the best interests of our Nation. So it is not possible for us to move as expeditiously concerning it as we can move on the START II treaty.

However, I would say to the Senator that the Foreign Relations Committee will immediately establish a hearing schedule on the convention which will begin hearings in February 1996. The committee will complete its hearings on the convention by April 30, 1996. By April 30, the committee will meet in a business session to consider the Chemical Weapons Convention.

Prior to the final committee vote on whether to report the treaty to the Senate, the committee could adopt any or all of the following: recommendations to amend the treaty; reservations and understandings; modifications of the resolution of ratification; or direction for the renegotiation of the treaty. The final committee vote could allow that the treaty be reported favorably, unfavorably, or without recommendation.

Mr. KERRY. Madam President, I would ask the distinguished chairman—I believe at this point are the colloquies of Senator DASCHLE and Senator DOLE now a part of the record?

Mr. HELMS. They are now a part of the RECORD. I will ask the Chair to confirm that.

The PRESIDING OFFICER. That is correct.

Mr. KERRY. That is as to both the Chemical Weapons Convention as well as the nomination of Katie McGinty to be Chairman of the Council on Environmental Quality. Is that correct?

Mr. HELMS. That is correct.

The PRESIDING OFFICER. That is correct.

Mr. KERRY. It is my understanding that there is a further unanimous-consent request with respect to the Chemical Weapons Convention if it is not reported by the close of business. Or is that accomplished?

Mr. HELMS. Already done.

The PRESIDING OFFICER. It is.

ORDER OF PROCEDURE

Mr. KERRY. In that case, Madam President, if I may, I would like to review with the Senator very briefly those items as we understand them that are summarized within H.R. 1561.

On Monday when we take up this issue we have agreed, have we not, that as to the issue of consolidation, that we have agreed on compromise language with technical changes which will propound a $1.7 billion savings over 5 years with a baseline of fiscal year 1995 at the appropriated level, that there would be no mandatory abolition of agencies, there would be not more than 30 percent of the savings realized for programmatic reductions, and there would be not more than 15 percent of the savings realized from State Department administrative accounts.

Does the chairman agree with my summary of the consolidation?

Mr. HELMS. That is correct. And it will be made a part of the RECORD.

Mr. KERRY. With respect to other bill issues, there is agreement on language reflected in a summary of changes in Division A which will be made a part of the RECORD.

There is a deletion of section 168 based on Senator DODD's request in writing to have this dealt with in conference on the Cuban Liberty and Solidarity Act. There is a deletion of section 603 relating to coercive population control policies. And there is an addition of $10 million in fiscal year 1996 for the East-West Center pursuant to an agreement between the chairman and ranking member and Senator INOUYE.

Mr. HELMS. That is correct.

Mr. KERRY. With respect to Iraqi claims, there is a compromise which contemplates satisfying licensing for those people with letters of advice while simultaneously expanding—compromise language which we arrived at this evening which basically splits the difference between the parties with respect to the concerns that have been expressed.

Mr. HELMS. That is correct, Madam President.

Mr. KERRY. With respect to the authorization levels, there is an agreement that those authorization levels currently set out in the bill will be addressed in conference with an understanding among the parties that we will make a good-faith effort and seek to increase the levels of operating accounts for the agencies affected by the bill.

Mr. HELMS. That is correct.

Mr. KERRY. With respect to conference issues as to consolidation, there is an agreement that the Senate conferees will operate under consensus with respect to the consolidation proposal regarding mandatory cost savings, the abolition of the agencies, and the limitations as to where those cost savings may be achieved?

Mr. HELMS. That is correct.

Mr. KERRY. With respect to the foreign aid provisions, the population provisions will be a Member issue in the conference. And there is agreement that foreign aid provisions of the U.S. Senate will be neither added nor dropped in conference without a mutual discussion, involvement by Senate conferees?

Mr. HELMS. That is customary.

Mr. KERRY. Similarly, any discussion or consideration of the foreign aid provisions of the House bill will be by similar participation?

Mr. HELMS. That is customary. The Senator will be a member of the conference committee.

Mr. KERRY. Procedural, as to procedural issues that have now been set forth within the context of the unanimous consent agreement—and there is no need to repeat those. And the chairman has agreed to schedule hearings for early next year, with committee action on the convention in the early spring for the Chemical Weapons Convention. It is also the understanding that the committee will resume normal activities with respect to the scheduling of hearings and committee actions on all currently pending nominees and other committee business.

Mr. HELMS. That was my intent all along, Madam President.

Mr. KERRY. Well, Madam President, let me say that I want to thank the distinguished chairman and his staff. This has been a complicated and long negotiating process. But I think it has been one where both parties fairly attempted to try to work the best compromise possible to effect some very complicated changes within the structure of our foreign policy establishment.

I am convinced that what we have achieved here is a strong beginning for a reevaluation of how we are doing business, of the responsibilities of these various agencies and departments. I am convinced that as the parties proceed in good faith into the conference itself, that we have an opportunity to make our delivery of the foreign policy product of this country far more effective, far more efficient, and the taxpayers of this country will benefit significantly from the changes which are promoted here.

The chairman has stood his ground on many issues and fought hard, as have we. And I think, as in all efforts to make the compromise, this represents exactly that, a sound meeting of the minds and a sound effort to try to bring the parties together. I am convinced that it is a good product.

There are still some issues that we need to work on. The chairman understands that. I understand that. Members understand that. But I think what we have done, by breaking through here in the last week, is to bring the committee back together in an important way and to indicate that we are all intending to do our utmost to try to see to it that there is a strong bipartisan effort to present the strongest possible future work product from this important committee. And I thank the chairman for his continued efforts even when the road was difficult to keep the lines of communication open and to help to make this happen.

Mr. HELMS. Madam President, I thank the Senator from Massachusetts. I am grateful for the opportunity to work for him and with him in reaching this agreement. And I have only the observation that this could have been achieved many, many weeks ago if there had not been such intransigence. But that is behind us.

I hope from this point on that we can work together in good faith, not question each other's good faith, and work for the American people, saving money and improve the foreign policy apparatus of this country, which badly needs improving. And I pledge that I shall work with the Senator as long as he is willing to work with me. And I thank the Senator. And I thank the Chair.

I want to send to the desk, Madam President, a printed review of the items that Senator KERRY has just discussed for the benefit of the reporter. I know he tried to take it down, but it is easier to have it in writing.

Madam President, I ask unanimous consent that the review be printed in the RECORD.

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

CHECKLIST—HELMS-KERRY MEETING ON S. 908

A. SUMMARY OF MANAGERS AMENDMENT

1. Consolidation

Agreed on compromise language offered by Kerry with technical changes, as follows:

$1.7 billion in savings over 5 years; baseline is FY 1995 appropriated level;

No mandatory abolition of agencies;

Not more than 30% of the savings realized from programmatic reductions;

Not more than 15% of the savings realized from State Department's administrative accounts.

2. Other bill issues

Agreed on language reflected in attached summary of changes in Division A with the following additional changes:

(a) deletion of Section 168 based on Dodd's request in writing to Kerry to have this dealt with in conference on the Cuban Liberty and Solidarity Act;

(b) deletion of Section 603 relating to coercive population control policies (House bill contains a similar provision); and

(c) addition of $10 million in FY 1996 for the East-West center, pursuant to Helms' agreement with Inouye.

3. Iraq Claims—

4. Authorization levels

Agreement that authorization levels would be addressed in conference with an effort to increase the levels of operating accounts for agencies affected by the bill.

B. CONFERENCE ISSUES

1. Consolidation

Agreement that the Senate conferees will operate ''under consensus'' with respect to Kerry's consolidation proposal regarding mandatory cost savings, abolition of the agencies and the limitations as to where cost savings may be achieved.

2. Foreign Aid Provisions

(a) Population provisions will be a Member issue in conference.

(b) Agreement that foreign aid provisions will either be added nor dropped in conference without Kerry's involvement.

C. PROCEDURAL ISSUES

1. Agreed that the pending nominations which are ready to be acted upon (i.e. 18 ambassadorial nominations and 4 FSO promotion lists) and the START II treaty will be added on by the Committee at a business meeting immediately prior to floor action on S. 908.

2. Agreed to propound 4 UC agreements prior to any action on S. 908 as follows:

(a) Nominees

Upon passage of S. 908, the 18 nominations and the 4 FSO promotion lists will be deemed passed by the Senate in bloc. In the event that the Committee has not acted upon these nominations, the UC agreement would provide for the Committee to be discharged of the 18 ambassadorial nominations and the 4 FSO promotion lists and for immediate passage of all these nominations upon passage of S. 908.

(b) Conferees on S. 908

Upon passage of S. 908, conferees would be appointed.

(c) START II

Upon passage of S. 908 in the event that Committee has not acted the Committee would be discharged of START II and Start II will be acted upon by the Senate prior to the end of this session.

(d) Conferees on Cuba

Upon passage of S. 908, conferees would be appointed on the Cuban Liberty and Solidarity Act.

D. OTHER ISSUES

1. Chemical Weapons Convention

Will schedule hearings for early next year and Committee action on the convention in early spring

2. Other Pending Nominations

Committee will resume normal activities including scheduling hearings and Committee action on all currently pending nominees, and other Committee business.

S. 908—SUMMARY OF CHANGES IN DIVISION 'A'

Agreements reached on changes in Division A

(Agreed-upon on 11/09/95)

Delete Foreign Service end strengths in section 141 (c) and (d). Reporting requirement on end strengths included in Kerry reorganization proposal.

Delete restrictions in section 111(c) on liaison office in North Korea. Done in managers amendment—7/31/95.

Agreed to drop sections 166 and 167 relating to immigration in conference.

Amend section 205 relating to UN inspector general.

Amend section 212 dealing with prior notification of UN Security Council votes on peacekeeping.

Substitute Intelligence Committee language on intelligence sharing with UN in section 216.

Delete section 217 exempting US from UN sanctions.

Delete provision terminating US participation in ILO in section 313(1).

Amend section 314 dealing with US participation in UN Human Rights Committee.

Agreed to drop new reporting requirements in conference.

Mr. HELMS. I thank the Chair.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Madam President, I would just like to say how fortunate the United States is to have in its setting an individual with the manner, negotiating skill and tact, as that of the Senator from Massachusetts. He has carried the load in a wonderful way. I feel guilty not having shared it more. And his willingness to compromise is the essence of politics and the essence of progress. He and the Senator from North Carolina have conducted themselves ably. I would like to put in a word for the assistant of the Senator from Massachusetts, Nancy Stetson. By coincidence, she is from the State of Rhode Island.

Mr. KERRY. I thank the distinguished former chairman and now ranking member of the committee for his very generous comments.

Mr. HELMS. Madam President, it goes without saying that I am grateful, as I always am, for the remarkable staff of the majority on the Foreign Relations Committee. Beside me is Steve Berry, who has worked arduously and continuously, and he still has a little bit of his hair left. And then there is Randy Scheunemann, who once was on our staff and is now associated with Senator DOLE. He has been of invaluable help. I cannot go down the long list, but I am obliged to mention my Monroe, North Carolina colleague, the chief of staff of the Foreign Relations Committee, retired navy admiral Bud Nance. He calls himself ''Bud,'' but his name is James Wilson Nance. I must insert the personal note that Bud and I were born 2 months apart, two blocks apart in the little town of Monroe. He served 38 years in the Navy, and after that, he served Ronald Reagan as his foreign affairs advisor.

Mr. KERRY. If my colleague will yield before he closes, I join with him in thanking his staff, also—Steve Berry, particularly, and Randy Scheunemann have been extraordinarily helpful in working through the issues. We are grateful for their help.

Mr. HELMS. That is very kind of the Senator. I know they appreciate that.

MORNING BUSINESS

Mr. HELMS. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

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

MESSAGE FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:07 a.m., a message from the House of Representatives, delivered by

Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

At 5:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 641) to reauthorize the Ryan White CARE Act of 1990, and for other purposes, disagreed to by the Senate, and agrees to the conference asked by the Senate on the disagreeing votes of the two House thereon; and appoints Mr. BLILEY, Mr. BILIRAKIS, Mr. COBURN, Mr. WAXMAN, and Mr. STUDDS as the managers of the conference on the part of the House.

The message also announced that the House agrees to the amendments of the Senate to the amendment of the House to the bill (S. 790) to provide for the modifications or elimination of Federal reporting requirements.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1350. An act to amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2099) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes, and the House recedes from its disagreement to the amendment of the Senate and concurs therein with an amendment.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 1058. An act to reform Federal securities litigation, and for other purposes.

H.R. 2204. An Act to extend and reauthorize the Defense Production Act of 1950, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

MEASURES PLACED ON THE CALENDAR

The following measure was read the first and second time and placed on the calendar:

S. 1452. A bill to establish procedures to provide for a taxpayer protection lock-box and related downward adjustment of discretionary spending limits and to provide for additional deficit reduction with funds resulting from the stimulative effect of revenue reductions.

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 1350. An act to amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled ''Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1996'' (Rept. No. 104–180).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1459. An original bill to provide for uniform management of livestock grazing on Federal land, and for other purposes (Rept. No. 104–181).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 776. A bill to reauthorize the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act, and for other purposes (Rept. No. 104–182).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 956. A bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1340. A bill to require the President to appoint a Commission on Concentration in the Livestock Industry.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary.

Bruce D. Black, of New Mexico, to be United States District Judge for the District of New Mexico.

Patricia A. Gaughan, of Ohio, to be United States District Judge for the Northern District of Ohio.

Hugh Lawson, of Georgia, to be United States District Judge for the Middle District of Georgia.

John Thomas Marten, of Kansas, to be United States District Judge for the District of Kansas.

(The above nominations were reported with the recommendations that they be confirmed.)

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. BURNS (for himself, Mr. CRAIG, Mr. REID, Mr. THOMAS, Mr. BRYAN, and Mr. INHOFE):

S. 1453. A bill to prohibit the regulation by the Secretary of Health and Human Services and the Commissioner of Food and Drugs of any activities of sponsors or sponsorship programs connected with, or any advertising used or purchased by, the Professional Rodeo Cowboy Association, its agents or affiliates, or any other professional rodeo association, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 1454. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and fisheries for the vessel *Joan Marie*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1455. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Movin On*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1456. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Play Hard*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1457. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Shogun*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG:

S. 1458. A bill to amend the provisions of title 35, United States Code, to establish the Patent and Trademark Corporation, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for Mr. DOMENICI):

S. 1459. An original bill to provide for uniform management of livestock grazing on Federal land, and for other purposes; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mrs. BOXER (for herself and Mr. BIDEN):

S. 1460. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservative Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. MCCAIN):

S. Res. 198. A resolution to make certain technical changes to S. Res. 158; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS (for himself, Mr. CRAIG, Mr. REID, Mr. THOMAS, Mr. BRYAN, and Mr. INHOFE):

S. 1453. A bill to prohibit the regulation by the Secretary of Health and Human Services and the Commissioner of Food and Drugs of any activities or sponsors or sponsorship programs connected with, or any advertising used or purchased by, the Professional Rodeo Cowboy Association, its agents or affiliates, or any other professional rodeo association, and for other purposes; to the Committee on Labor and Human Resources.

THE RODEO FREEDOM ACT OF 1995

Mr. BURNS. Mr. President, I rise today with the support of Senators REID, CRAIG, THOMAS, BRYAN, and INHOFE, to introduce a bill that is vitally important to the heritage of the Western United States, the sport of rodeo. The Rodeo Freedom Act of 1995 is a bill that will protect the interests of the sport of rodeo and the many small and large communities that host rodeos throughout the year.

Rodeo is the one true American sport—a sporting event watched by millions of people yearly. It's a unique sporting event that tests the skills of both man and beast. Rodeo is a sport that traces its beginnings to contests held between ranches in the West during the latter part of the last century. Cowboys tested their skills in breaking wild horses and the everyday jobs of roping and doctoring the animals of the ranch owner's herds. Rodeo is one of the few sports which early on allowed women to compete and to share in the prize money that is offered. Today thousands of men, women, and children hold dreams of winning a world championship buckle awarded to the top performer in each event.

In recent months the continued good fortune of the sport of rodeo has been threatened by the administration, through the transfer of authority for the control of products that sponsor both professional and local rodeos. The President has taken steps to give control to the Food and Drug Administration of the products that sponsor rodeo events throughout the Nation. This agency has already stated that many of the products that sponsor both professional and amateur sports will have to give up their right to advertise and support these events. This move could send many entertainment events, like rodeo, to an early grave. The cost to many of the small communities that host the hundreds of rodeos around the country could be the end of their involvement.

This is just one of the latest moves that have been made to regulate the manner in which sporting events earn the money necessary to provide top entertainment. The restrictions the Government is seeking to impose would limit, if not destroy, the long standing relationship between rodeo and its many sponsors. This would threaten the economic viability of an important recreational and economic activity in Montana and throughout the Western United States.

I doubt the agencies involved took into account the economic impact that their decisions would have on small rural communities. In many of the smaller communities in Montana, and I am sure in many Western States, the residents eagerly anticipate the one annual event of the year, the rodeo. The contestants come in from around the country, and for that matter the world, to compete. Tourists traveling through the area many times extend their stay to catch the uniquely American sport.

This event may bring thousands of dollars into an already suffering economy. In one particular city in Montana, an annual rodeo will mean the addition of over $2 million to the local economy.

The additional money that sponsors provide to local rodeos makes rodeo one of the best family entertainment bargains today. Without the assistance of these sponsors, rodeo, if it could even continue, would need to bring the price of its tickets up to a level that would preclude many families from the one entertainment event they wait for annually.

This is another example of Big Government tossing its weight around. The enforcement of the sponsorship should be controlled at the local level by the State governments, most of which already have laws limiting the distribution of products. If we don't call the Federal Government on this one, What will be next?

This is not a product issue. It is an issue of personal freedom, and the right of westerners to enjoy our recreational pursuits. This legislation is for all competitors, whether they are weekend cowboys or top rodeo stars. Their participation in the sport of rodeo helps to ensure the traditions and heritage of the West. The popularity of western movies and rodeo demonstrates the fascination that people the world over hold for the cowboy tradition.

In closing I would like to commend all the competitors that have struggled so hard in rodeos this year. This week marks the culmination of all that effort, as 15 of the top cowboys and cowgirls meet in Las Vegas, NV to compete in the National Finals Rodeo. By this Sunday night the world champions will be determined in the following events: Bareback and saddle bronc and bull riding, team roping, calf roping, steer wrestling, and barrel racing. I tip my hat to all the competitors and wish them a safe and good ride. And using a term known among the cowboy circles I say ''Bare Down and Cowboy up.''

I urge my colleagues to join with me in protecting the future of rodeo.

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. 1453

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 ''Rodeo Freedom Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) professional rodeo is an important and popular spectator sport that is attended by an estimated 18,000,000 American adults annually across the United States and particularly in the Western and Southwestern regions;

(2) in the Western and Southwestern regions, the sport of rodeo has a long and interesting history and therefore, is of great cultural and social significance to such States;

(3) the Professional Rodeo Cowboy Association has 10,000 members and sponsors approximately 800 rodeos in 46 States every year;

(4) because of its cultural associations with the Western and Southwestern regions of the United States, the rodeo is an important attraction for domestic and foreign tourism to those regions;

(5) the professional rodeo and the support industries associated with professional rodeo generate substantial economic activity in host communities and are significant sources of income, economic security, employment, recreation, and enjoyment for Americans;

(6) the Professional Rodeo Cowboy Association enjoys the freedom to choose the sponsors or sponsorship programs associated with the rodeos of the association;

(7) the sponsors or sponsorship programs associated with the rodeos of the Professional Rodeo Cowboy Association assist in sustaining the sport of rodeo and in making such sport affordable and accessible to millions of adult rodeo fans across America;

(8) despite the enjoyment that millions of Americans derive from watching rodeo events, and the importance of such events to the economies of the Western and Southwestern regions and of the United States, Federal agencies other than the Federal Trade Commission have proposed restrictions upon the activities of sponsors, sponsorship programs, or advertising connected with rodeo events; and

(9) such restrictions, if adopted will—

(A) jeopardize the continued financial viability of professional rodeos;

(B) result in a considerable financial loss to tourism and other related industries;

(C) interfere with the enjoyment of rodeo events by millions of American adults who attend rodeos annually; and

(D) impose unconstitutional limitations on both commercial speech and the freedom of association of the membership of the Professional Rodeo Cowboys Association.

SEC. 3. PROHIBITION.

The Secretary of Health and Human Services and the Commissioner of Food and Drugs shall have no authority under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) to regulate—

(1) activities of sponsors or sponsorship programs connected with—

(A) the Professional Rodeo Cowboy Association or its activities or events; or

(B) any other professional rodeo association or the agents or affiliates of such association or the activities or events of such association, agents, or affiliates; or

(2) advertising that is used or purchased by, or that is in connection with—

(A) the Professional Rodeo Cowboy Association or its activities or events; or

(B) any other professional rodeo association or the agents or affiliates of such association or the activities or events of such association, agents, or affiliates.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect as if enacted on August 10, 1995.

By Mr. LAUTENBERG:

S. 1458. A bill to amend the provisions of title 35, United States Code, to establish the Patent and Trademark Corporation, and for other purposes; to the Committee on the Judiciary.

THE PATENT AND TRADEMARK OFFICE REFORM ACT OF 1995

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Patent and Trademark Office Reform Act of 1995, that would establish the Patent and Trademark Office as a Government corporation and make significant improvements in its management.

These changes will free the Office from restrictive laws that have prevented it from becoming as efficient as its users and our economy demand. Applications will be processed faster, top talent will be hired and retained, necessary state-of-the-art equipment will be purchased, and office space will be acquired or leased at more favorable terms.

Mr. President, the Patent and Trademark Office is in the business of examining and granting patents and registering trademarks, a function important enough to warrant mention in Article 1 of our Constitution. The protection of innovation provided by the PTO has helped create millions of jobs and is one of the reasons our country is so competitive and the most productive in the world.

The services and products provided by the PTO are paid for entirely by user fees. Last year, the PTO received more than 185,000 patent applications and 155,000 trademark applications. PTO projects steady increases in both types of applications into the next century.

Unfortunately, the processing and approval of applications has often been delayed. These delays are due in part to a shortage of examiners and out-of-date equipment. As a result of these delays, inventors are being denied protection of the fruits of their labor, and further innovation is thus postponed.

My intent in offering this legislation is to enhance the PTO's ability to process and grant patents and register trademarks in a timely fashion. The legislation responds to various management problems now facing the Office.

First, the Office is now burdened with unnecessary personnel regulations. As a component of the Department of Commerce, the PTO is subject to the same personnel ceilings as other Commerce programs. While such ceilings may make sense for other agencies or departments, they do not for the PTO. If the PTO is prevented from making necessary hires to keep up with the increase in applications, productivity will decline and potential revenues will be lost.

A large amount of the work performed by the PTO requires specialized skills. The application of the Government-wide compensation and classification systems has constrained PTO's ability to hire and maintain the best talent. For example, the classification system is too rigid to adequately accommodate many of the PTO's unique positions. The resulting misclassifications can mean lower positions, making it more difficult to attract experts from the private sector. Compounding this problem is the General Schedule, restrictions on promotions, and the inability of the PTO to conduct its own personnel examinations.

The PTO also has had serious procurement problems. The Office is subject to various restrictions on its procurement activities, as provided in the Federal Property and Administrative Services Act, the Brooks Act, and the Public Buildings Act. These laws have forced the PTO to endure lengthy and expensive procurement delays. For example, a recent computer procurement took 2 years to complete. When the PTO made the request, the technology contained in this procurement was state of the art. However, by the time the PTO finally received the equipment, technology in this area had advanced significantly.

It has been PTO's experience that the process of procuring items in the $1 million range averages 12 to 18 months at a cost of $100,000 to $200,000. The private sector accomplishes such procurements in a few months at a fraction of the cost.

Another problem is that the PTO is spread throughout 15 office buildings in Crystal City, VA, which are leased through the General Services Administration. This scattering of personnel and operations is not only inconvenient, it is inefficient. Moreover, three times in as many years, GSA appraised this space at amounts not supported by the market, and charged the PTO too much. Congressional action was necessary in all instances, resulting in a savings of $22.3 million. When the PTO's lease expires in 1996, it will require about one-half million square feet more than it currently has. PTO has been negotiating with GSA and OMB for almost 6 years trying to reach a resolution to this situation, but to no avail.

Mr. President, this bill is one more step to reinvent our Government, an important effort championed by the Clinton administration. My legislation would enable the PTO to be run more like a business. However, unlike a private-sector enterprise, PTO's employees would remain Federal employees and the Office would remain in the Department of Commerce. This is an important distinction because the granting of patents and registering of trademarks is a necessary Government function and it would be imprudent to insulate this responsibility in an unaccountable autonomous body.

Under the bill, the Commissioner of the Patent and Trademark Corporation, or the PTC, will report to the Secretary of Commerce for trademark and patent policy matters only. The PTC will be free from departmental meddling in the management of its day-to-day activities, such as how many patent examiners need to be hired, which computer system the PTC should buy, and how many buildings the PTC should occupy. This firewall addresses many of the criticisms leveled at the PTO over the years, but ensures that attention to intellectual property policy matters remains at the Cabinet level.

Mr. President, let me describe briefly what my bill will do. The Commissioner of the Patent and Trademark Corporation shall, with the assistance of two deputies, manage the 5,000-plus employees and run this $600-plus million entity. They will be able to do this without the constraints of the Brooks Act, the Public Buildings Act, and the Federal Property and Administrative Services Act. Like the private sector, the new corporation will be able to acquire computers, office space, and furniture in a timely manner. All assets, liabilities, contracts, property, unexpended and unobligated balances of appropriations, and other funds made available to the PTO will be transferred to the PTC. This includes those unappropriated funds contained in the Treasury Department's surcharge fee account.

The new PTC will be able to provide its employees competitive wages and benefits. It will not be subject to personnel ceilings, including those established in the Federal Workforce Restructuring Act of 1994. During the transition from the Patent and Trademark Office to the Patent and Trademark Corporation, all employees will be assured of work for 1 year. I understand the concerns of PTO's employees who might view this bill as an effort to downsize the Office, and want to assure them that this is not my intent nor the intent of the administration. Our objective is to give the Commissioner discretion over the classification and compensation systems so the PTC can hire and keep top talent, not slash the compensation of PTO's employees. To assuage the concerns of the employees, and those who might object to the 1-year carryover provision, I would again emphasize that PTO projects a steady increase in both trademark and patent applications into the next century. Not only is this a healthy sign for our economy, it is a good sign that PTO's workers are still very much needed.

Mr. President, although the PTC needs freedom from unreasonable bureaucratic redtape and regulations, we also must be careful to ensure that it remains accountable, and is not subject to abuse. My bill contains sufficient safeguards to ensure the PTC will not

be moving into luxurious offices, paying outrageous sums to its employees, or entering into sweetheart deals. These safeguards include oversight by the Congress, an Inspector General, the General Accounting Office, an advisory board, and users of the PTC's services.

Under the legislation, Congress will continue to set the user fees for the PTC. I know some would have preferred to place this responsibility with the Commissioner, and perhaps we can revisit this issue in several years after we see how well the PTC is operating. For now, however, I thought it best to keep the fee-setting authority with Congress to ensure adequate oversight and accountability.

The PTC also will have its own Inspector General to investigate waste, fraud, and abuse. This person will be appointed by the Secretary to ensure a greater degree of independence. Additionally, audits will be performed annually by either an independent CPA or the GAO. The results of these audits shall be made public and will be sent to Congress. Finally, the PTC is required, by the Government Control Corporation Act, to submit annual management reports to Congress and business-like budgets to the President. These reports and budgets must include statements on cash flows, operations, financial position, and internal accounting and administrative control systems.

The Patent and Trademark Corporation Act would also have an advisory board to represent the views of users and other interested persons. The Secretary would appoint members to the board for terms of 3 years as well as select the Chair. The board would review and advise the Commissioner on the PTC's performance, budget, and user fees. Furthermore, the Commissioner is required to consult with the board prior to changing or proposing to change fees or regulations. The board will submit an annual report containing its review of the PTC to the President, Congress, and the Commissioner.

Mr. President, I have drafted this bill in consultation with the Patent and Trademark Office, the administration, the National Academy of Public Administration, the American Intellectual Property Law Association, the International Trademark Association, the Intellectual Property Owners, Inc., the intellectual property section of the American Bar Association, and the National Treasury Employees Union. The benefits resulting from this legislation should be immediately apparent to the PTC's users. Not only will their applications be processed and awarded at a quicker rate, they will have input into how the corporation should be run. Furthermore, I believe that the PTC's increased productivity will have a direct beneficial effect on our economy.

I hope my colleagues will support this legislation and I look forward to working with Senator HATCH, the chairman of the Judiciary Committee, and others as the process of reforming the Patent and Trademark Office moves forward.

I ask unanimous consent that a copy 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. 1458

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 ''Patent and Trademark Office Reform Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—PATENT AND TRADEMARK CORPORATION

SEC. 101. ESTABLISHMENT, OFFICERS, AND FUNCTIONS OF THE CORPORATION.

Chapter 1 of title 35, United States Code, is amended by striking out sections 1, 2, 3, 4, 6, and 7 and inserting in lieu thereof the following:

''§ 1. Establishment

''(a) The Patent and Trademark Corporation is established as a wholly owned Government corporation subject to chapter 91 of title 31, except as otherwise provided in this title. The Corporation shall be within the Department of Commerce and shall be subject to the Secretary for patent and trademark policy direction. For purposes of internal management, the Corporation shall be considered a corporate body apart from departmental supervision, except as otherwise provided in this title.

''(b) The Patent and Trademark Corporation shall maintain an office for the service of process in the District of Columbia, or the metropolitan area thereof, and shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

''(c) For purposes of this title, the Patent and Trademark Corporation shall also be referred to as the 'Corporation'.

''§ 2. Powers and duties

''(a) The Corporation shall have the powers and carry out the functions and duties that are authorized by law with respect to—

''(1) the granting and issuing of patents and the registration of trademarks;

''(2) conducting studies, programs, or exchanges of items or services regarding domestic and international patent and trademark law or the administration of the Corporation, or any other matter included in the laws for which the Corporation is responsible including the provision of this title, the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1051 et seq.)), and the Patent and Trademark Office Reform Act of 1995;

''(3) authorizing or conducting studies and programs cooperatively with foreign patent and trademark offices and international organizations, in connection with the granting and issuing of patents and the registration of trademarks; and

''(4) disseminating to the public information with respect to patents and trademarks.

''(b) In order to accomplish the purposes of this title, the Corporation—

''(1) shall have perpetual succession;

''(2) shall adopt and use a corporate seal, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Corporation shall be authenticated;

''(3) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings, as provided in section 8 of this title;

''(4) may indemnify the Commissioner, officers, attorneys, agents and employees (including members of the Advisory Board), of the Corporation for liabilities and expenses incurred within the scope of their employment;

''(5) may adopt, amend, and repeal bylaws, rules, and regulations, governing the manner in which its business will be conducted and the powers granted to it by law will be exercised, without regard to chapter 35 of title 44;

''(6) without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.), and sections 501 and 502 of the Stewart B. McKinney Act (42 U.S.C. 11411 and 11412) may—

''(A) acquire, construct, purchase, lease, hold, manage, operate, and alter any property (real, personal, or mixed) or any interest therein, as it determines necessary in the transaction of its business, and sell, lease, grant; and

''(B) dispose of such property, as it deems necessary to effectuate the purposes of this title for periods of time or for terms as the Corporation determines necessary;

''(7)(A) may make purchases, contracts for the construction, alteration, maintenance, or management and operation of facilities and contracts for the supplies or services, except personal services, after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition, except such advertising shall not be required when the Corporation determines that—

''(i) the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title; or

''(ii) advertising is not reasonably practicable; and

''(B) may enter into and perform such purchases and contracts for printing services, to include the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it determines necessary to effectuate the functions of the Corporation, without regard to sections 501 through 517 and 1101 through 1123 of title 44;

''(8) may use, with their consent, services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis, and, on a similar basis, to cooperate with such other agencies and instrumentalities in the establishment and use

of services, equipment, and facilities of the Corporation;

''(9) may obtain from the Administrator of the General Services Administration such services as the Administrator is authorized to provide to agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

''(10) may use, with the consent of the agency, government, or organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign government or international organization to perform necessary functions on the Corporation's behalf;

''(11) may enter into and perform such contracts, leases, cooperative agreements, or other transactions with international, foreign and domestic public agencies and private organizations and persons as needed in the conduct of its business and on such terms as it determines appropriate;

''(12) may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title, the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), and to laws specifically applicable to wholly owned government corporations that are not specifically inconsistent with this title;

''(13) may retain and utilize all of its revenues and receipts, including revenues from the sale, lease, or disposal of any property (real, personal, or mixed) or any interest therein, of the Corporation, including research and development and capital investment, without apportionment under the provisions of subchapter II of chapter 15 of title 31;

''(14) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

''(15) may accept monetary gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes authorized under this section;

''(16) may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers;

''(17) may provide for liability insurance and insurance against any loss in connection with its property, other assets or operations either by contract or by self-insurance; and

''(18) shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund established under section 1304 of title 31.

''§ 3. Officers and employees

''(a)(1) The management of the Corporation shall be vested in the Commissioner of Patents and Trademarks, who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner shall be a person who, by reason of professional background and experience in patent and trademark law and of management experience, is especially qualified to manage the Corporation.

''(2) The Commissioner shall—

''(A) be responsible for the management and direction of the Corporation, including the granting and issuance of patents and the registration of trademarks, and may delegate these responsibilities to the officers and employees of the Corporation whose performance of these duties shall be subject to the Commissioner's review;

''(B) report directly to the Secretary on patent and trademark policy matters;

''(C) consult with the Advisory Board established in section 5 on a regular basis on matters relating to the operation of the Corporation, and shall consult with the Board before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations;

''(D) inform the Secretary of studies and programs conducted under section 2(a)(3);

''(E) advise the Secretary on all aspects of intellectual property policy, legislation, and issues;

''(F) advise the Secretary on international trade issues concerning intellectual property;

''(G) promote in international trade the United States industries that rely on intellectual property;

''(H) advise the Secretary of State, the United States Trade Representative, and other appropriate department and agency heads, subject to the authority of the Secretary, on international intellectual property issues;

''(I) advise Federal agencies on ways to improve intellectual property protection in other countries through economic assistance and international trade;

''(J) review and coordinate all proposals by agencies to assist foreign governments and international intergovernmental agencies in improving intellectual property protection;

''(K) carry on studies related to the effectiveness of intellectual property protection throughout the world; and

''(L) in coordination with the Department of State, carry on studies cooperatively with foreign intellectual property offices and international intergovernmental organizations.

''(3) The Commissioner shall serve a term of 6 years, and such period thereafter until a successor is appointed and assumes office. The Commissioner may be reappointed to subsequent terms.

''(4) The Commissioner shall receive as basic compensation for a calendar year an amount not to exceed the equivalent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5 and, in addition, may receive as a bonus awarded by the Secretary, an amount up to the equivalent of the annual rate of basic pay for such level II, based upon the Secretary's evaluation of the Commissioner's performance—

''(A) as defined in an annual performance agreement between the Commissioner and the Secretary incorporating measurable goals in such specific areas as productivity, cycle times, efficiency, cost-reduction, innovative ways of delivering patent and trademark services, and customer satisfaction, as delineated in an annual performance plan; and

''(B) as reflected in the annual report required under section 14.

''(5) The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Corporation.

''(6) The Commissioner shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Commissioner in the event of absence or incapacity of the Commissioner.

''(b)(1) Officers and employees of the Corporation shall be officers and employees of the United States as defined by sections 2104 and 2105 of title 5, United States Code.

''(2)(A) The Commissioner shall appoint a Deputy Commissioner for Patents and a Deputy Commissioner for Trademarks for terms that shall expire on the date on which the Commissioner's term expires. The Deputy Commissioner for Patents shall be a person with demonstrated experience in patent law and the Deputy Commissioner for Trademarks shall be a person with demonstrated experience in trademark law.

''(B) The Deputy Commissioner for Patents and the Deputy Commissioner for Trademarks shall be—

''(i) the principal advisors to the Commissioner on all aspects of the activities of the Corporation that affect the administration of patent and trademark operations, respectively; and

''(ii) principally responsible for managing their respective patent and trademark units.

''(3) The Commissioner shall appoint an Inspector General and such other officers, employees (including attorneys), and agents of the Corporation as the Commissioner considers necessary to carry out its functions.

''(c)(1) Except as regards the Inspector General, the Commissioner shall fix the compensation of officers and employees in accordance with the policy set forth in section 5301 of title 5 including compensation based on performance.

''(2) Except as otherwise provided in this title or any other provision of law, the basic pay of an officer or employee of the Corporation for any calendar year may not exceed the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5 or level ES–6 for the Senior Executive Service under section 5332 of title 5, whichever is higher. Total compensation, including compensation based on performance (but not including benefits or contributions to retirement systems), may not exceed the equivalent of the basic rate of pay for level I of the Executive Schedule under section 5312 of title 5.

''(3) The Commissioner shall define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Corporation as the Commissioner shall determine.

''(d) The Corporation shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Corporation shall be taken into account for purposes of applying any such limitation, except to the extent otherwise specifically provided by statute with respect to the Corporation.

''(e) Notwithstanding the provisions of title 5 (but subject to the Inspector General Act of 1978 (5 U.S.C. App.)), the Commissioner shall have sole and exclusive discretion—

''(1) over the establishment, amendment, or repeal of any position classification system to determine the qualifications and procedures for appointment; any compensation and award system except gainsharing, including wages and compensation based on performance, and contributions of the Corporation to the retirement and benefits programs, except that the Corporation's contribution shall not be less than that paid for Federal employees under title 5;

''(2) to fix and adjust rates of pay without regard to the provisions of chapter 53 of title 5 and abolish positions and lay off without regard to the provisions of chapter 35 of title 5 except that preference eligibility laws shall apply in any layoff system; and

''(3) to determine any supplement to benefits beyond those provided by statute.

''(f) The following provisions of title 5 shall not apply to the Corporation or its officers and employees:

''(1) Chapter 31 (employment authorities), except that the provisions of sections 3102 and 3110 shall apply to the Corporation and its employees.

''(2) Chapter 33 (examination, selection, and placement), except that the system of veterans' preference established by chapter 33 shall apply to the Corporation and its employees.

''(3) Chapter 35 (retention, restoration, and reemployment).

''(4) Chapter 43 (performance appraisal).

''(5) Chapter 51 (classification).

''(6) Chapter 53, subchapter 3 (general pay rates).

''(g)(1) Officers and employees shall remain subject to chapters 83 (Civil Service Retirement System), 84 (Federal Employees Retirement System), 87 (life insurance), and 89 (health insurance) of title 5. The Corporation may supplement the benefits provided under chapters 83 and 84 of such title from time to time. The Corporation also may change the application of chapters 87 and 89 of such title to its officers and employees, except that such changes, in their aggregate, shall not result in life and health benefits which are less favorable to officers and employees than those offered under chapters 87 and 89.

''(2) The Corporation shall withhold pay and make such payments as are required under the Federal disability and retirement system for the Government's share of the cost of the Civil Service Retirement System or the Federal Employees Retirement System applicable to the Corporation's employees and their beneficiaries. The Corporation shall also contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of the Corporation's employees. The annual billings shall also include a statement of the fair portion of the cost of administration of the respective funds, which shall be paid into the Treasury as miscellaneous receipts.

''(h)(1) Chapter 71 of title 5 shall apply with respect to the Corporation and its employees.

''(2) The Corporation and employees may bargain with respect to the establishment, amendment, or repeal of—

''(A) any position classification system;

''(B) any compensation system, including wages and compensation based on performance, and contribution of the Corporation to the retirement and benefits program; and

''(C) any system to determine qualifications and procedures for employment;

in the same manner and to the same extent as under a Federal Labor Relations Authority holding, in effect on the day before the effective date of the Patent and Trademark Office Reform Act of 1995, with regard to the negotiability of such matters, unless such holding is overturned or modified by a Federal court.

''(i)(1) On the effective date of the Patent and Trademark Office Reform Act of 1995, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Corporation without a break in service.

''(2) No officer or employee of the Office who becomes an officer or employee of the Corporation shall, for a period of 1 year after the effective date of the Patent and Trademark Office Reform Act of 1995, be subject to separation or to any reduction in compensation as a consequence of the establishment of the Corporation.

''(3) The amount of sick and annual leave and compensatory time accumulated under title 5 prior to the effective date of the Patent and Trademark Office Reform Act of 1995, by officers and employees of the Office who become officers and employees of the Corporation under this section shall be obligations of the Corporation.

''(4)(A) The individual serving as the Commissioner of Patents and Trademarks on the day before the effective date of the Patent and Trademark Office Reform Act of 1995 may serve as the Commissioner until a Commissioner has been appointed under subsection (a).

''(B) The individual serving as the Assistant Commissioner for Patents on the day before the effective date of the Patent and Trademark Office Reform Act of 1995 may serve as the Deputy Commissioner for Patents until a Deputy Commissioner for Patents has been appointed under subsection (b).

''(C) The individual serving as the Assistant Commissioner for Trademarks on the day before the effective date of the Patent and Trademark Office Reform Act of 1995 may serve as Deputy Commissioner for Trademarks until a Commissioner has been appointed under subsection (b).

''(j) For purposes of appointment to a position in the competitive service for which an officer or employee of the Corporation is qualified, such officer or employee shall—

''(1) not forfeit any competitive status, acquired by such officer or employee before the effective date of the Patent and Trademark Office Reform Act of 1995, by reason of becoming an officer or employee of the Corporation under subsection (i)(1); or

''(2) if not covered by paragraph (1), acquire competitive status after completing at least 1 year of continuous service under a nontemporary appointment to a position within the Corporation (taking into account such service, performed before the effective date described in paragraph (1), as may be appropriate).

''(k) All orders, determinations, rules, and regulations regarding compensation and benefits and other terms and conditions of employment in effect for the Office and its officers and employees on the day before the effective date of the Patent and Trademark Office Reform Act of 1995 shall continue in effect with respect to the Corporation and its officers and employees until modified, superseded, or set aside by the Corporation or a court of competent jurisdiction or by operation of law. The collective bargaining agreements between the Patent and Trademark Office and the National Treasury Employees Union 243, dated March 13, 1993, the Patent and Trademark Office and the National Treasury Employees Union 245, dated July 20, 1993, and the Patent and Trademark Office and the Patent Office Professional Association, dated October 6, 1986, as well as the recognition of the three units, shall remain in effect until modified, superseded, or set aside by the parties.

''§ 4. Restrictions on officers and employees as to interest in patents

''Officers and employees of the Patent and Trademark Corporation shall be incapable, during the period of their appointments and for 1 year thereafter, of applying for a patent and of acquiring, directly or indirectly, except by inheritance or bequest, any patent or any right or interest in any patent, issued or to be issued by the Corporation. In patents applied for thereafter they shall not be entitled to any priority date earlier than 1 year after the termination of their appointment.

''§ 5. Advisory Board

''(a)(1) There is established an Advisory Board of the Corporation, which shall consist of thirteen members, as follows:

''(A) The Commissioner of Patents and Trademarks, ex officio.

''(B) Twelve members appointed by the Secretary who shall be United States citizens of high integrity and demonstrated accomplishment in a variety of fields, including, finance, labor relations, consumer affairs, academia, large and small business or as an independent inventor. At least 6 shall have strong backgrounds in patents or trademarks.

''(2) No other person may substitute for a member of the Advisory Board.

''(3) The Secretary shall designate the chair of the Board, whose term as chair shall be for 3 years.

''(4) Initial appointments to the Board shall be made within 3 months after the effective date of the Patent and Trademark Office Reform Act of 1995, and vacancies shall be filled within 3 months after they occur.

''(b) Of those members of the Board specified in subsection (a)(1)(A) who are original appointees, the Secretary shall designate 4 who shall serve for a term of 1 year, 4 who shall serve for a term of 2 years, and 4 who shall serve for a term of 3 years. The term of members of the Board appointed after the expiration of the terms of the first appointed members of the Board shall be 3 years. The Secretary shall appoint an individual to serve the unexpired term of a member who withdraws or otherwise is unable to serve for the full term.

''(c) Members of the Board specified in subsection (a)(1)(B) shall be special Government employees within the meaning of section 202 of title 18. Members of the Board specified in subsection (a)(1)(B) shall serve on a part-time basis and shall be compensated at a per diem rate equivalent to level III of the Executive Schedule under section 5314 of title 5, in addition to reimbursement of reasonable incurred expenses when engaged in performance of duties vested in the Board.

''(d) The Board shall—

''(1) review the Corporation's policies, goals, performance, budget, and user fees and advise the Commissioner on these matters and any other matter that the Commissioner refers to the Board;

''(2) within 60 days after the end of each fiscal year, prepare an annual report on the matters referred to in paragraph (1), transmit the report to the President, the Commissioner, and the Committees on the Judiciary of the Senate and the House of Representatives, and publish the report in the Patent and Trademark Office Official Gazette; and

''(3) meet at least quarterly, as provided by the bylaws of the Corporation, and at any time at the request of the Commissioner.

''(e)(1) The Corporation shall provide at the request of the Board such assistance as is necessary for the Board to perform its functions.

''(2) Members of the Board shall be provided access to records and information of the Corporation, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122 of this title.

''(f) The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any activities of the Board, except that members shall be considered to be serving on an advisory committee within the meaning of the Federal Advisory Committee Act for purposes of section 208(b)(3) of title 18.

''§ 6. Suits by and against the Corporation

''(a)(1) Any civil action, suit, or proceeding to which the Corporation is a party is deemed to arise under the laws of the United States. Exclusive jurisdiction over all civil actions by or against the Corporation is in the Federal courts as provided by law. For purposes of filing suits, the Commissioner shall be the head of the Corporation.

''(2) Any action, suit, or proceeding against the Corporation founded upon contract shall be subject to the limitations and exclusive remedy provided in sections 1346(a)(2) and 1491 through 1509 of title 28, whether or not such contract claims are cognizable under sections 507, 1346, 1402, 1491, 1496, 1497, 1501, 1503, 2071, 2072, 2411, 2501, and 2512 of title 28. For purposes of the Contract Disputes Act of 1978, the Commissioner shall be deemed to be the agency head with respect to contract claims arising with respect to the Corporation.

''(3) Any action, suit, or proceeding against the Corporation founded upon tort shall be

subject to the limitations and exclusive remedies provided in sections 1346(a) and 2671 through 2680 of title 28, whether or not such tort claims are cognizable under section 1346(b) of title 28.

''(4) Any action, suit, or proceeding against the Corporation based upon an alleged violation of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a), title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.) or section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) shall be subject to the limitations and exclusive remedies provided for other Federal Government executive agencies for a violation of such section or title.

''(5) No attachment, garnishment, lien, or similar process, intermediate or final, in law or equity, may be issued against property of the Corporation.

''(6) The Corporation shall be substituted as defendant in any civil action, suit, or proceeding against an employee of the Corporation, if the Corporation determines that the employee was acting within the scope of the employee's employment with the Corporation. If the Corporation refuses to certify scope of employment, the employee may at any time before trial, petition the court to find and certify that the employee was acting within the scope of the employee's employment. Upon certification by the court, the Corporation shall be substituted as the party defendant. A copy of the petition shall be served upon the Corporation.

''(b)(1) Except as further provided in this section, in relation to all judicial proceedings in which the Corporation or an employee is a party or in which the Corporation is interested and which arise from or relate to employees acting within the scope of their employment, torts, contracts, property, registration of patent and trademark practitioners, patents or trademarks, or fees, the Corporation may exercise, without prior authorization from the Attorney General, the authorities and duties that otherwise would be exercised by the Attorney General on behalf of the Corporation under title 28 and other laws. In all other judicial proceedings in which the Corporation or an employee of the Corporation is a party or is interested, the Corporation may exercise these authorities and duties only after obtaining authorization from the Attorney General.

''(2) The Attorney General may file an appearance on behalf of the Corporation or an employee of the Corporation, without the consent of the Corporation, in any suit in which the Corporation is a party and represent the Corporation with exclusive authority in the conduct, settlement, or compromise of that suit.

''(3) The Corporation may consult with the Attorney General concerning any legal matter, and the Attorney General shall provide advice and assistance to the Corporation, including representing the Corporation in litigation, if requested by the Corporation.

''(4) The Attorney General shall represent the Corporation in all cases before the United States Supreme Court.

''(5) An attorney admitted to practice to the bar of the highest court of at least one State in the United States or the District of Columbia and appointed by the Corporation may represent the Corporation in any legal proceeding in which the Corporation or an employee of the Corporation is a party or interested, regardless of whether the attorney is a resident of the jurisdiction in which the proceeding is held and notwithstanding any other prerequisites of qualification or appearance required by the court or administrative body.

''§ 7. Board of Patent Appeals and Interferences

''(a) There shall be in the Patent and Trademark Corporation a Board of Patent Appeals and Interferences. The Commissioner, the officer principally responsible for the examination of patents, the officer principally responsible for the examination of trademarks, and the examiners-in-chief shall constitute the Board. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability.

''(b) The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title (35 U.S.C. 135(a)). Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Commissioner. Only the Board of Patent Appeals and Interferences may grant rehearings.''.

SEC. 102. MANAGEMENT REPORT.

Section 14 of title 35, United States Code, is amended to read as follows:

''§ 14. Annual report to Congress

''The Corporation shall prepare and submit to the Congress an annual management report as required under section 9106 of title 31.''.

SEC. 103. USE OF CORPORATION NAME AND DEFINITIONS.

Chapter 1 of title 35, United States Code, is amended by inserting after section 14 the following new sections:

''§ 15. Use of Corporation name

''No individual, association, partnership, or corporation, except the Corporation, shall hereafter use the words 'United States Patent and Trademark Corporation', 'Patent and Trademark Office', or any combination of such words, as the name or part thereof under which such individual or entity shall do business. Violations of the foregoing may be enjoined by any Federal court at the suit of the Corporation. In any such suit, the Corporation shall be entitled to statutory damages of $1,000 for each day during which such violation continues or is repeated and, in addition, may recover actual damages flowing from such violation.

''§ 16. Definitions

''For purposes of this title:

''(1) The term 'Advisory Board' means the Advisory Board of the United States Patent and Trademark Corporation.

''(2) The term 'Commissioner' means the Commissioner of the United States Parent and Trademark Corporation.

''(3) The term 'Corporation' means the United States Patent and Trademark Corporation.

''(4) The term 'intellectual property' shall include rights in inventions; in trademarks, service marks, and commercial names and designations; in literary, artistic and scientific works; in performances of performing artists, phonograms and broadcasts; in industrial designs; in trade secrets and scientific discoveries; in semiconductor chip layout designs; in geographical indications; and all other rights resulting from intellectual activity in the industrial, scientific, literary, or artistic fields.

''(5) The terms 'Patent and Trademark Office' and 'Office' mean the Patent and Trademark Office of the Department of Commerce.

''(6) The term 'Secretary' means the Secretary of Commerce.''.

SEC. 104. SUSPENSION OR EXCLUSION FROM PRACTICE.

Section 32 of title 35, United States Code, is amended by inserting before the last sentence the following: ''The Commissioner shall have the discretion to designate any attorney who is an officer or employee of the Patent and Trademark Corporation to conduct the hearing required by this section.''.

SEC. 105. FEES.

(a) IN GENERAL.—Chapter 4 of title 35, United States Code, is amended by striking out section 42 and inserting in lieu thereof the following:

''§ 42. Patent and Trademark Corporation funding

''(a) All fees for services performed by or materials furnished by the Patent and Trademark Corporation will be payable to the Corporation.

''(b)(1) Moneys of the Corporation not otherwise used to carry out the functions of the Corporation shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds.

''(2) Fees available to the Commissioner under this title shall be used exclusively for the processing of patent applications and for other services and materials relating to patents. Fees available to the Commissioner under section 31 of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946') (15 U.S.C. 1113) shall be used exclusively for the processing of trademark registrations and for other services and materials relating to trademarks.

''(c) The Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its debentures, bonds, notes, and other evidences of indebtedness (collectively referred to as 'obligations') in an amount not exceeding $2,000,000,000 outstanding at any one time, to assist in financing its activities. Such obligations shall be redeemable at the option of the Corporation before maturity in the manner stipulated in such obligations and shall have such maturity as is determined by the Corporation with the approval of the Secretary of the Treasury. Each such obligation issued to the Treasury shall bear interest at a rate not less than the current yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligations of the Corporation issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this section of the purchase price of such obligations of the Corporation shall be treated as public debt transactions of the United States.

''§ 43. Audits

''(a) Financial statements of the Corporation shall be prepared on an annual basis in accordance with generally accepted accounting principles and shall be made publicly available in a timely manner. Such statements shall be audited by an independent certified public accountant chosen by the Secretary. The audit shall be conducted in accordance with standards that are consistent with generally accepted government auditing standards and other standards established by the Comptroller General, and with the private sector's generally accepted auditing standards, to the extent feasible. Upon the completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the Congress and the Corporation.

''(b) The Comptroller General may review any audit of the Corporation's financial statements conducted under subsection (a). The Comptroller General shall report to the Congress and the Corporation the results of any such review and shall include in such report appropriate recommendations.

''(c) The Comptroller General may audit the financial statements of the Corporation and such audit shall be in lieu of the audit required by subsection (a). The Corporation shall reimburse the Comptroller General for the cost of any audit conducted under this subsection.

''(d) All books, financial records, report files, memoranda, and other property that the Comptroller General deems necessary for the performance of any audit shall be made available to the Comptroller General.

''(e) This section shall apply to the Corporation in lieu of the provisions of section 9105 of title 31.''.

(b) SURCHARGE FUND.—(1) On the effective date of this Act, there are transferred to the Patent and Trademark Office those residual and unappropriated balances remaining as of the effective date within the Patent and Trademark Office Surcharge Fund established by section 10101(b) of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note).

(2) Notwithstanding any other provision of law, effective on and after October 1, 1998, section 10101 of the Omnibus Reconciliation Act of 1990 (35 U.S.C. 41 note) shall cease to apply to the revenues of the Corporation.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 4 of title 35, United States Code, is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

''42. Patent and Trademark Corporation funding.
''43. Audits.''.

(2) Section 10101 of the Omnibus Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(A) in subsection (a), by striking out ''subsections (a) and (b) of'';

(B) in paragraphs (1)(A) and (2)(A) of subsection (b), by striking out ''Patent and Trademark activities in the Department of Commerce'' and inserting in lieu thereof ''United States Patent and Trademark Corporation'';

(C) in subsection (b), by striking out ''Patent and Trademark Office'' each place it appears and inserting in each such place ''United States Patent and Trademark Corporation''; and

(D) in subsection (c), by striking out ''Commissioner of Patents and Trademarks'' and inserting in lieu thereof ''Commissioner of the United States Patent and Trademark Corporation''.

SEC. 106. TRADEMARK TRIAL AND APPEAL BOARD.

Section 17 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) (15 U.S.C. 1067) is amended to read as follows:

''SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Commissioner shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

''(b) The Trademark Trial and Appeal Board shall include the Commissioner, the officer principally responsible for the examination of trademarks, the officer principally responsible for the examination of patents, and members competent in trademark law, who are appointed by the Commissioner of the United States Patent and Trademark Corporation.''.

SEC. 107. TRANSFERS.

(a) FUNCTIONS.—Except as otherwise provided in this Act, there are transferred to, and vested in, the United States Patent and Trademark Corporation all functions, powers, and duties vested by law in the Secretary of Commerce or the Department of Commerce or in officers or components in the Department with respect to the authority to grant patents and register trademarks, and the Patent and Trademark Office, and in the officers and components of such Office.

(b) ASSETS.—The Secretary of Commerce is authorized and directed, without need of further appropriation, to transfer to the United States Patent and Trademark Corporation, on the effective date of this title, those assets, liabilities, contracts, property, records, and unexpended and unobligated balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available to the Department of Commerce (inclusive of funds set aside for accounts receivable which are related to functions, powers, and duties which are vested in the Corporation by this title).

SEC. 108. TRANSITION PROVISIONS.

(a) CONTRACTS AND AGREEMENTS.—Except as otherwise provided in this Act, all contracts, agreements, leases and other business instruments, licenses, permits, and privileges that have been afforded to the Patent and Trademark Office before the effective date of this Act, shall continue in effect as if the United States Patent and Trademark Corporation had executed such contracts, agreements, leases, or other business instruments which have been made in the exercise of functions which are transferred to the Corporation by this Act.

(b) RULES.—Until changed by the United States Patent and Trademark Corporation, any procedural and administrative rules applicable to particular functions over which the Corporation acquires jurisdiction on the effective date of this Act shall continue in effect with respect to such particular functions.

(c) APPLICATION OF DEPARTMENT RULES TO CORPORATION.—Unless otherwise provided by this Act, as related to the functions vested in the United States Patent and Trademark Corporation by this Act, all orders, determinations, rules, regulations, and privileges of the Department shall cease to apply to the Corporation on the effective date of this Act, except for those which the Corporation determines shall continue to be applicable.

(d) PENDING PROCEEDINGS.—Except as otherwise provided in this Act, the transfer of functions related to and vested in the United States Patent and Trademark Corporation by this Act shall not affect judicial, administrative, or other proceedings which are pending at the time this Act takes effect, and such proceedings shall be continued by the Corporation.

(e) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Commissioner of Patents and Trademarks shall be deemed to refer to the Commissioner of the United States Patent and Trademark Corporation; and

(2) the Patent and Trademark Office shall be deemed to refer to the United States Patent and Trademark Corporation.

SEC. 109. NONAPPLICABILITY OF FEDERAL WORKFORCE REDUCTIONS.

No full-time equivalent position in the Patent and Trademark Corporation shall be eliminated to meet the requirements of section 5 of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 3101 note).

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 500(e) of title 5, United States Code, is amended by striking out ''the Patent Office'' and inserting in lieu thereof ''the United States Patent and Trademark Corporation''.

(2) Section 5102(c)(23) of title 5, United States Code, is amended by striking out ''Patent and Trademark Office'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(3) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following:

''Commissioner of Patents and Trademarks, United States Patent and Trademark Office, Department of Commerce.''.

(4) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

''Inspector General, United States Patent and Trademark Corporation.''.

(5) Section 5316 of title 5, United States Code (5 U.S.C. 5316), is amended by striking out the items relating to Commissioner of Patents, Department of Commerce, Deputy Commissioner for Patents, Assistant Commissioner for Patents, and Assistant Commissioner for Trademarks.

(6) Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting ''the United States Patent and Trademark Corporation,'' before ''and the United States Postal Service''.

(7) Section 13 of title 35, United States Code, is amended by striking out ''at the rate for each year's issue established for this purpose in section 41(d) of this title''.

(8) The provisions of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) (15 U.S.C. 1051 et seq.), other than section 29, are amended by striking out ''Patent and Trademark Office'' and ''United States Patent and Trademark Office'' each place such terms appear and inserting in each such place ''United States Patent and Trademark Corporation''.

(9) The Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) is amended in section 12(a) (15 U.S.C. 1062(a)) by striking out ''shall refer the application to the examiner in charge of the registration of marks''.

(10) Section 4 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended by striking out ''Patent and Trademark Office''.

(11) Section 19 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831r) is amended by striking out ''Patent and Trademark Office of the United States'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(12) Section 2320(d)(1)(A)(ii) of title 18, United States Code, is amended by striking out ''United States Patent and Trademark Office'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(13) Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526(a)) is amended by striking out ''Patent and Trademark Office'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(14) The Joint Resolution approved April 12, 1892 (20 U.S.C. 91) is amended by striking out ''Patent Office'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(15) Section 505(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(m)) is amended by striking out ''Patent and Trademark Office of the Department of Commerce'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(16) Section 512(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(o)) is

amended by striking out ''Patent and Trademark Office of the Department of Commerce'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(17) Section 702(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(d)) is amended by striking out ''Commissioner of Patents'' and inserting in lieu thereof ''Commissioner of Patents and Trademarks''.

(18) Section 501(b)(1) of the Jobs Through Trade Expansion Act of 1994 (22 U.S.C. 2151t–1(b)(1)) is amended by striking out ''Patent and Trademark Office'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(19) Section 2 of the Act of August 27, 1935 (25 U.S.C. 305a) is amended by striking out ''Patent and Trademark Office'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(20) Section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended by striking out ''Patent Office'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(21) Section 1295(a)(4) of title 28, United States Code, is amended by striking out ''Patent and Trademark Office'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(22) Section 1744 of title 28, United States Code, is amended—

(A) in the section heading by striking out ''**Patent Office**'' and inserting in lieu thereof ''**United States Patent and Trademark Office**'';

(B) by striking out ''Patent Office'' each place such term appears and inserting in lieu thereof ''United States Patent and Trademark Corporation''; and

(C) by striking out ''Commissioner of Patents'' and inserting in lieu thereof ''Commissioner of Patents and Trademarks''.

(23) Section 1745 of title 28, United States Code, is amended by striking out ''United States Patent Office'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(24) Section 1928 of title 28, United States Code, is amended by striking out ''Patent Office'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(25) Section 9101(3) of title 31, United States Code, is amended by adding at the end thereof:

''(O) the United States Patent and Trademark Corporation.''.

(26) The provisions of title 35, United States Code, are amended by striking out ''Patent and Trademark Office'' and ''United States Patent and Trademark Office'' each place such terms appear and inserting in each such place ''United States Patent and Trademark Corporation''.

(27) The table of sections for chapter 1 of part I of title 35, United States Code, is amended to read as follows:

''CHAPTER 1—ESTABLISHMENT, OFFICERS, FUNCTIONS

(28) Section 302 of title 35, United States Code, is amended in the second sentence by inserting ''established'' before ''pursuant''.

(29) Sections 371(c)(1) and 376(a) of title 35, United States Code, are amended by striking out ''provided'' and inserting in lieu thereof ''established under''.

(30) Section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474) is amended by inserting after paragraph (21) the following new paragraph:

''(22) the United States Patent and Trademark Corporation,''.

(31) Section 151 (c) and (d) of the Atomic Energy Act of 1954 (42 U.S.C. 2181 (c) and (d)) are each amended by striking out ''Commissioner of Patents'' and inserting in lieu thereof ''Commissioner of Patents and Trademarks''.

(32) Section 160 of the Atomic Energy Act of 1954 (42 U.S.C. 2190) is amended by striking out ''Patent Office'' and inserting in lieu thereof ''United States Patent and Trademark Corporation''.

(33) Section 305(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(c)) is amended by striking out ''Commissioner of Patents'' and inserting in lieu thereof ''Commissioner of Patents and Trademarks''.

(34) Section 12(a) of the Solar Energy Research, Development, and Demonstration Act of 1974 (42 U.S.C. 5510(a)) is amended by striking out ''Commissioner of Patent Office'' and inserting in lieu thereof ''Commissioner of Patents and Trademarks''.

(35) Section 1111 of title 44, United States Code, is amended by striking out ''Commissioner of Patents'' and inserting in lieu thereof ''Commissioner of Patents and Trademarks''.

(36) Section 1123 of title 44, United States Code, is amended by striking out ''the Patent Office,''.

(37) Section 1114 of title 44, United States Code, is amended by striking out ''Commissioner of Patents,''.

(38)(A) Sections 1337 and 1338 of title 44, United States Code, are repealed.

(B) The table of sections for chapter 13 of title 44, United States Code, is amended by striking out the items relating to sections 1337 and 1338.

(39) Section 10(i) of the Trading with the Enemy Act (50 U.S.C. App. 10) is amended by striking out ''Commissioner of Patents'' and inserting in lieu thereof ''Commissioner of Patents and Trademarks''.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. SEPARABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 202. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of the enactment of this Act.●

By Mrs. BOXER (for herself and Mr. BIDEN):

S. 1460. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservative Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERNATIONAL DOLPHIN PROTECTION AND CONSUMER INFORMATION ACT

● Mrs. BOXER. Mr. President, nearly 6 years ago, as a Member of the House of Representatives, I introduced legislation to establish a dolphin safe label for tuna sold in the United States. The companion Senate bill was introduced by my colleague the distinguished junior Senator from Delaware, JOE BIDEN. In 1990, our bill—the Dolphin Protection Consumer Information Act—became law.

This year, on October 4, the United States and 11 other nations—Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Panama, Spain, Mexico, Vanuatu, and Venezuela—signed the Declaration of Panama, an international agreement to manage tuna fishing in the Eastern Tropical Pacific. That agreement calls for changes in U.S. dolphin protection laws—including in our 1990 Dolphin Protection Act.

Today, Senator BIDEN and I are introducing legislation—the Dolphin Protection and Consumer Information Act of 1995—that will implement all of the positive aspects of the Panama Declaration, while maintaining the current labelling requirements that allow only truly dolphin safe tuna to be sold in the United States.

The signers and supporters of the Panama Declaration want other countries to be able to sell tuna in the United States market. We agree—as long as they catch that tuna by dolphin safe methods as prescribed by the 1990 Act. Our bill will lift the U.S. country-by-country tuna embargo to give all tuna fishermen the opportunity to export to the United States market as long as they use dolphin safe practices. We believe this will open United States markets and comply with international trade agreements without gutting U.S. dolphin protection laws.

As defined in the 1990 Act, dolphin safe tuna fishing means that dolphins were not chased or encircled with nets during a tuna fishing trip. The $1 billion U.S. canned tuna market is a dolphin safe market and consumers know that the dolphin safe label means that dolphins were not harassed or killed.

We believe that the definition of dolphin safe should not be changed until we know for sure that setting purse seine nets on dolphins and then freezing them is dolphin safe. It would be consumer fraud to change the label. Let us continue to encourage those who fish tuna using the best dolphin safe methods to get the label.

Let me briefly explain other major provisions and outcomes of our bill:

First, it requires that the Panama Declaration and its 5,000 cap on dolphin mortality be enforceable and binding. Our bill makes it clear that if the limit is exceeded, all sets on dolphins allowed by the Panama Declaration would stop for the rest of the fishing year.

Second, it requires that the Panama Declaration establish an enforceable timeframe for the reduction of dolphin mortality from the cap of 5,000 to zero. Our bill requires that dolphin mortality be reduced by a statistically significant amount each year.

Third, it will result in the protection of U.S. canners—who 5 years ago made a commitment to the American public to process and sell only dolphin safe tuna—from unfair foreign competition and from the dumping of stockpiled dolphin unsafe tuna in the U.S. market.

Fourth, it ensures that countries will enforce their obligations under the International Dolphin Conservation Program—established in the Panama Declaration and fully reflected in our bill—to protect dolphins and the Eastern Tropical Pacific ecosystem by requiring that an embargo be reestablished for any country which consistently fails to take enforcement actions. Countries must show that they are acting to punish fishermen who do not comply with the requirements of the Panama Declaration—the embargoes could be reestablished.

Fifth, it requires the establishment of a research program to determine (1) the effect of harassment by chase and encirclement on the health and biology of dolphins and its impact on dolphin populations encircled by purse seine nets in the ETP and (2) the extent to which the incidental take of non-target species, including juvenile tuna, occurs when fishing for yellowfin tuna using dolphin-safe methods and the impact of that incidental take on tuna stocks.

Sixth, it ensures that Congress is informed of progress in the fishery by requiring that the Secretary of Commerce report to Congress within 3 years on the results of the dolphin stress and bycatch research.

Seventh, it directs the Secretary of Commerce to make recommendations on how U.S. law should be modified according to what the research results show.

Our bill is supported by 70 organizations, including the Sierra Club, the Humane Society of the United States, Earth Island Institute, Public Citizen's Global Trade Watch, American Society for the Prevention of Cruelty to Animals, Friends of the Earth, International Dolphin Project, and Defenders of Wildlife.

While U.S. canners have not taken a formal position on this legislation, they have stated their firm support for the current dolphin safe label. Bumble Bee Seafoods for example stated that it is ''firmly committed'' to it's policy of ''marketing only dolphin safe tuna''. In a statement Bumble Bee Seafoods said ''We share our customers concern about this issue and are proud of the fact that all Bumblebee tuna is verifiably 100 percent dolphin safe. . . We believe that Bumblebee's dolphin safe policy is right and we will not compromise it''.

I firmly believe that our bill is a responsible alternative to the bill recently introduced by our colleagues, Senator STEVENS and Senator BREAUX, which redefines ''dolphin safe'' to allow dolphins to be chased and encircled with purse seine nets as long as there is no observed mortality. Observed mortality is a tricky issue that leaves room for errors and a lot of judgement calls. What if the dolphin isn't quite dead yet? Injury to dolphins often occurs and can lead to eventual death. We don't know for sure that dolphins don't suffer from the constant chasing and encircling that they are subjected to.

What Senator BIDEN and I, and the 70 environmental and other organizations who support us, are saying is: Look at the science first—then make changes to U.S. law. We say: Let's encourage and help those who are fishing dolphin safe and canning dolphin safe by opening the U.S. market to them. We say: Let's not weaken our commitment to save the dolphins for the sake of a little more foreign trade.

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:

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''International Dolphin Protection and Consumer Information Act of 1995''.

(b) REFERENCES TO MARINE MAMMAL PROTECTION ACT OF 1972.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The nations that fish for tuna in the eastern tropical Pacific Ocean have reduced dolphin mortalities associated with that fishery from hundreds of thousands annually to fewer than 5,000 annually.

(2) The provisions of the Marine Mammal Protection Act of 1972 that impose a ban on imports from nations that fish for tuna in the eastern tropical Pacific Ocean have served as an incentive to reduce dolphin mortalities.

(3) Consumers of the United States and Europe have made clear their preference for tuna that has not been caught through the killing, chasing, or harming of dolphins.

(4) Tuna canners and processors of the United States have led the canning and processing industry in promoting a dolphin-safe tuna market.

(5) The 12 signatory nations to the Declaration of Panama, including the United States, agreed under that Declaration to require that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean not exceed 5,000, with a commitment and objective to progressively reduce dolphin mortality to a level approaching zero through the setting of annual limits.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize that nations fishing for tuna in the eastern tropical Pacific Ocean have achieved significant reductions in dolphin mortality associated with that fishery; and

(2) to eliminate the ban on imports of dolphin-safe tuna from those nations.

SEC. 3. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following new paragraphs:

''(28) The term 'International Dolphin Conservation Program' means the international program established by the agreement signed in La Jolla, California, in June 1992, as formalized, modified, and enhanced in accordance with the Declaration of Panama, that requires—

''(A)(i) that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean be limited to 5,000; and

''(ii) a commitment and objective to progressively reduce dolphin mortality to a level approaching zero through the setting of annual limits;

''(B) the establishment of a per stock per year mortality limit of dolphin at a level between 0.2 percent and 0.1 percent of the minimum population estimate to be in effect through 2001;

''(C) beginning with the calendar year 2001, the establishment of a per stock per year mortality limit of dolphin at a level less than or equal to 0.1 percent of the minimum population estimate;

''(D) that if a mortality limit is exceeded under—

''(i) subparagraph (A), all sets on dolphins shall cease for the applicable fishing year; and

''(ii) subparagraph (B) or (C), all sets on the stocks covered under subparagraph (B) or (C) and any mixed schools that contain any of those stocks shall cease for the applicable fishing year;

''(E) a scientific review and assessment to be conducted in 1998 to—

''(i) assess progress in meeting the objectives set for 2,000 under subparagraph (B); and

''(ii) as appropriate, consider recommendations for meeting these objectives;

''(F) a scientific review and assessment to be conducted—

''(i) to review the stocks covered under subparagraph (C); and

''(ii) as appropriate, consider recommendations to further the objectives set under that subparagraph;

''(G) the establishment of a per vessel maximum annual dolphin mortality limit consistent with the applicable per year mortality caps, as determined under subparagraphs (A) through (C); and

''(H) the provision of a system of incentives to vessel captains to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality.–

''(29) The term 'Declaration of Panama' means the declaration signed in Panama City, Republic of Panama, on October 4, 1995.''.

SEC. 4. AMENDMENTS TO TITLE I.

(a) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is amended—

(1) in the first sentence, by inserting '', and authorizations may be granted under title III with respect to yellowfin tuna fishery of the eastern tropical Pacific Ocean, subject to regulations prescribed under that title by the Secretary without regard to section 103'' before the period; and

(2) in the second sentence, by striking the semicolon and all that follows through ''practicable''.

(b) Section 101(a)(2)(B) (16 U.S.C. 1371(a)(2)(B)) is amended to read as follows:

''(B) in the case of yellowfin tuna harvested with purse seine nets in the eastern tropical Pacific Ocean, and products therefrom, to be exported to the United States, shall require that the government of the exporting nation provide documentary evidence that—

''(i) the tuna or products therefrom were not banned from importation under this paragraph before the effective date of the International Dolphin Protection and Consumer Information Act of 1995; or

''(ii) the tuna or products therefrom were harvested after the effective date of the International Dolphin Protection and Consumer Information Act of 1995 by vessels of a nation that—

''(I) is a member of the Inter-American Tropical Tuna Commission; and

''(II) is participating in the International Dolphin Conservation Program; and

''(III) has implemented the obligations of that member as a member of the Inter-American Tropical Tuna Commission; and

''(iii) the total dolphin mortality permitted under the International Dolphin Conservation Program will not exceed 5,000 in 1996, or in any year thereafter and the total dolphin mortality limit for each vessel in each successive year shall be reduced by a statistically significant amount until the goal of zero mortality is reached, except that the per stock per year mortality limits for stocks designated as depleted under this Act shall not exceed the actual 1994 mortality level;

except that the Secretary shall not accept such documentary evidence as satisfactory proof for purposes of clauses (i) through (iii) if the government of the harvesting nation does not authorize the Inter-American Tropical Tuna Commission to release sufficient information to the Secretary to allow a determination of compliance with the International Dolphin Conservation Program, or if after taking into consideration that information, findings of the Inter-American Tropical Tuna Commission, and any other relevant information, including information that a nation is consistently failing to take enforcement actions on violations currently specified in the agreement signed in La Jolla, California, in June 1992 and adopted by the International Dolphin Conservation Program, the Secretary, in consultation with the Secretary of State, shall find that the violations diminish the effectiveness of the International Dolphin Conservation Program and that the harvesting nation is not in compliance with the International Dolphin Conservation Program;''.

(c) Section 101 (16 U.S.C. 1371) is amended by adding at the end the following new subsection:

''(d) The provisions of this Act shall not apply to a citizen of the United States when such citizen incidentally takes any marine mammal during fishing operations outside the United States exclusive economic zone, as that term is defined in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(6)) when employed on a foreign fishing vessel of a harvesting nation that is in compliance with the International Dolphin Conservation Program.''.

(d) Section 104(h) is amended to read as follows:

''(h)(1) Consistent with the regulations prescribed pursuant to section 103 and consistent with the requirements of section 101, the Secretary may issue an annual permit to a United States vessel for the taking of such marine mammals, together with regulations to cover the use of any such annual permits.

''(2) Such annual permits for the incidental taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean shall be governed by section 304, subject to the regulations issued pursuant to section 302.''.

(e) Section 110(a) (16 U.S.C. 1380(a)) is amended—

(1) by striking ''(a)(1) The Secretary'' and inserting ''(a) The Secretary''; and

(2) by striking paragraph (2).

(f) Section 901(d)(1) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)(1)) is amended to read as follows:

''(1) It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term 'Dolphin Safe' or any other term or symbol that falsely claims or suggests that the tuna contained in the product was harvested using a method of fishing that is not harmful to dolphins if the product contains—

''(A) tuna harvested on the high seas by a vessel engaged in driftnet fishing;

''(B) tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements of being considered dolphin safe under paragraph (2); or

''(C) tuna harvested outside the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements for being considered dolphin safe under paragraph (3).''.

(g) Section 901(d) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)) is amended by adding at the end the following new paragraphs:

''(3) For purposes of paragraph (1)(C), tuna or a tuna product that contains tuna harvested outside the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

''(A) it is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or to encircle dolphins during the particular voyage on which the tuna was harvested; or

''(B) in any fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, it is accompanied by a written statement executed by the captain of the vessel and an observer, certifying that no purse seine net was intentionally deployed on or to encircle marine mammals during the particular voyage on which the tuna was harvested.

''(4) No tuna product may be labeled with any reference to dolphins, porpoises, or marine mammals, except as dolphin safe in accordance with this subsection.''.

(h) Section 901(f) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)) is amended to read as follows:

''(f) The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section, not later than 3 months after the effective date of the International Dolphin Protection and Consumer Information Act of 1995.''.

SEC. 5. AMENDMENTS TO TITLE III.

(a) The heading of title III is amended to read as follows:

''TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM''.

(b) Section 301 (16 U.S.C. 1411) is amended—

(1) in subsection (a), by striking paragraph (4) and inserting the following:

''(4) Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have demonstrated their willingness to participate in appropriate multilateral agreements to reduce, and eventually eliminate, dolphin mortality in that fishery. Recognition of the International Dolphin Conservation Program will ensure that the existing trend of reduced dolphin mortality continues, that individual stocks of dolphins are adequately protected, and that the goal of eliminating all dolphin mortality continues to be a priority.''; and

(2) in subsection (b), by striking paragraphs (2) and (3) and inserting the following:

''(2) support the International Dolphin Conservation Program and efforts within the Program to reduce, and eventually eliminate, the mortality referred to in paragraph (1);

''(3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught with driftnets, or caught by deploying purse seine nets on or to encircle dolphins, in the eastern tropical Pacific Ocean not operating in compliance with the International Dolphin Conservation Program;''.

(c) Section 302 (16 U.S.C. 1412) is amended to read as follows:

''SEC. 302. AUTHORITY OF THE SECRETARY.

''(a) REGULATIONS.—(1) The Secretary shall issue regulations to implement the International Dolphin Conservation Program.

''(2)(A) Not later than 3 months after the effective date of the International Dolphin Protection and Consumer Information Act of 1995, consistent with section 101, the Secretary shall issue regulations to authorize and govern the incidental taking of marine mammals in the eastern tropical Pacific Ocean by vessels of the United States participating in the International Dolphin Conservation Program.

''(B) The regulations issued under this section shall include provisions—

''(i) requiring observers on each vessel;

''(ii) requiring the use of the backdown procedure or other procedures that are equally or more effective in avoiding mortality of marine mammals in fishing operations;

''(iii) prohibiting intentional set on stocks and schools in accordance with the International Dolphin Conservation Program;

''(iv) requiring the use of special equipment, including dolphin safety panels in nets, operable rafts, speedboats with towing bridles, floodlights in operable condition, and diving masks and snorkels;

''(v) ensuring that the backdown procedure during sets of purse seine net on marine mammals is completed and rolling of the net to sack up has begun no later than 30 minutes after sundown;

''(vi) banning the use of explosive devices in all purse seine operations;

''(vii) establishing per vessel maximum annual dolphin mortality limits, total dolphin mortality limits and per stock per year mortality limits subject to section 101 in accordance with the International Dolphin Conservation Program;

''(viii) preventing the making of intentional sets on dolphins after reaching either the vessel maximum annual dolphin mortality limits, total dolphin mortality limits, or per stock per year mortality limit;

''(ix) preventing the encirclement with purse seine nets on dolphins by a vessel without an assigned vessel dolphin mortality limit;

''(x) allowing for the authorization and conduct of experimental fishing operations, under such terms and conditions as the Secretary may prescribe, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce or eliminate dolphin mortality or that do not require the encirclement of dolphins in the course of commercial yellowfin tuna fishing; and

''(xi) containing such other restrictions and requirements as the Secretary determines are necessary to implement the International Dolphin Conservation Program with respect to the vessels of the United States;

except that the Secretary may make such adjustments as may be appropriate to provisions that pertain to fishing gear and fishing

practice requirements in order to carry out the International Dolphin Conservation Program.

''(b) CONSULTATION.—In developing a regulation under this section, the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission appointed under section 3 of the Tuna Conventions Act of 1950 (16 U.S.C. 952).

''(c) EMERGENCY REGULATIONS.—(1) If the Secretary determines, on the basis of the best scientific information available (including scientific information obtained under the International Dolphin Conservation Program) that the incidental mortality and serious injury of marine mammals authorized under this title is having, or is likely to have, a significant adverse effect on a marine mammal stock or species, the Secretary shall take the following actions:

''(A) Notify the Inter-American Tropical Tuna Commission of the findings of the Secretary, and include in that notification recommendations to the Commission concerning actions necessary to reduce incidental mortality and serious injury and mitigate such adverse impact.

''(B) Prescribe emergency regulations to reduce incidental mortality and serious injury and mitigate such adverse impact.

''(2) Prior to taking action under subparagraph (A) or (B) of paragraph (1), the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission appointed under section 3 of the Tuna Conventions Act of 1950 (16 U.S.C. 952).

''(3) Emergency regulations prescribed under this subsection—

''(A) shall be published in the Federal Register, together with an explanation thereof;

''(B) shall remain in effect for the duration of the applicable fishing year; and

''(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for the emergency action no longer exist.

''(4) If the Secretary finds that the incidental mortality and serious injury of marine mammals in the yellowfin tuna fishery in the eastern tropical Pacific Ocean is continuing to have a significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for such additional periods as may be necessary.

''(d) RESEARCH.—(1) The Secretary may, in cooperation with the nations participating in the International Dolphin Conservation Program and with the Inter-American Tropical Tuna Commission, undertake or support appropriate scientific research to further the goals of the International Dolphin Conservation Program, including—

''(A) devising cost-effective fishing methods and gear so as to reduce, with the goal of eliminating, the incidental mortality and serious injury of marine mammals in connection with commercial purse seine fishing in the eastern tropical Pacific Ocean;

''(B) developing cost-effective methods of fishing for mature yellowfin tuna without setting nets on –dolphins or other marine mammals; and

''(C) carrying out a scientific research program (as described in section 117) for those marine mammal species and stocks taken in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean, including species or stocks that are not within waters under the jurisdiction of the United States.

''(2) The Secretary, acting through the National Marine Fisheries Service, shall undertake a research program to—

''(A) determine the effect of harassment by chase and encirclement on the health and biology of dolphins and the impact of that harassment on dolphin populations encircled by purse seine nets in the course of fishing for yellowfin tuna in the eastern tropical Pacific Ocean; and

''(B) the extent to which the incidental take of nontarget species, including juvenile tuna, occurs when fishing for yellowfin tuna using dolphin-safe methods including fish aggregation devices, the impact of that incidental take on tuna stocks, and where such methods are occurring in international waters, the exclusive economic zone of any nation, or coastal waters.

''(3)(A) Not later than 3 years after the date of enactment of the International Dolphin Protection and Consumer Information Act of 1995, the Secretary shall submit a report to the Congress on the results of the research program conducted under paragraph (2).

''(B) The Secretary shall include in the report submitted to the Congress under this paragraph any recommendations made on the basis of the results of the research program conducted under paragraph (2) that the Secretary considers to be appropriate concerning—

''(i) legislation to address issues that the Secretary determines to be relevant to the results of the research program; and

''(ii) changes to the International Dolphin Conservation Program.

''(4) There are authorized to be appropriated to the Department of Commerce $1,000,000 to be used by the Secretary, acting through the National Marine Fisheries Service, to carry out paragraph (2).''.

(d) Title III (16 U.S.C. 1411) et seq. is amended—

(1) by striking sections 303 and 304;

(2) by inserting after section 302 the following:

''SEC. 303. REPORTS BY THE SECRETARY.

''Notwithstanding section 103(f), the Secretary shall annually submit to the Congress a report that includes—

''(1) results of research conducted pursuant to section 320;

''(2) a description of the status and trends of stocks of tuna;

''(3) a description of the efforts to assess, avoid, reduce, and minimize the bycatch of juvenile yellowfin tuna and bycatch of nontarget species;

''(4) a description of the activities of the International Dolphin Conservation Program and of the efforts of the United States in support of the goals and objectives of the International Dolphin Conservation Program, including the protection of dolphin populations in the eastern tropical Pacific Ocean, and an assessment of the effectiveness of the Program;

''(5) actions taken by the Secretary under the matter following clause (iii) of section 101(a)(2)(B);

''(6) copies of any relevant resolutions and decisions of the Inter-American Tropical Tuna Commission, and any regulations promulgated by the Secretary under this title; and

''(7) any other information that the Secretary considers to be relevant.'';

(3) by striking sections 305 and 306;

(4) by inserting after section 303 the following:

''SEC. 304. PERMITS.

''(a) IN GENERAL.—(1) In a manner consistent with the regulations issued pursuant to section 302, the Secretary shall issue a permit to a vessel of the United States authorizing participation in the International Dolphin Conservation Program and the Secretary may require a permit for the person actually in charge of and controlling the fishing operation of the vessel. The Secretary shall prescribe such procedures as are necessary to carry out this subsection, including requiring the submission of—

''(A) the name and official number or other identification of each fishing vessel for which a permit is sought together with the name and address of the owner thereof; and

''(B) the tonnage, hold capacity, speed, processing equipment, and type and quantity of gear, including an inventory of special equipment required under section 302, with respect to each fishing vessel.

''(2) The Secretary may charge a fee for granting an authorization and issuing a permit under this section. The level of fees charged under this paragraph may not exceed the administrative cost incurred in granting an authorization and issuing a permit. Fees collected under this paragraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in granting authorizations and issuing permits under this section.

''(3) After the effective date of the International Dolphin Protection and Consumer Information Act of 1995, no vessel of the United States shall encircle dolphins with purse seine nets in the course of fishing for yellowfin tuna fishery in the eastern tropical Pacific Ocean without a valid permit issued under this section.

''(b) PERMIT SANCTIONS.—(1) In any case in which—

''(A) a vessel for which a permit has been issued under this section has been used in the commission in an act prohibited under section 305;

''(B) the owner or operator of any such vessel or any other person who has applied for or been issued a permit under this section has acted in violation of section 305; or

''(C) any civil penalty or criminal fine imposed on a vessel, owner or operator of a vessel as provided for under the International Dolphin Conservation Program, or other person who has applied for or been issued a permit under this section has not been paid or is overdue, the Secretary may—

''(i) revoke any permit with respect to such vessel, with or without prejudice to the issuance of –subsequent permits;

''(ii) suspend a permit referred to in clause (i) for a period of time the Secretary considers to be appropriate;

''(iii) deny a permit referred to in clause (i); or

''(iv) impose additional conditions or restrictions on any permit issued to, or applied for by, any such vessel or person under this section.

''(2) In imposing a sanction under this subsection, the Secretary shall take into account—

''(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

''(B) with respect to the violator, the degree of culpability, and history of prior offenses, and other such matters as justice requires.

''(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of transfer.

''(4) In the case of any permit that is suspended for the failure to pay a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and any accrued interest on that penalty or fine at the prevailing rate (as determined by the Secretary).

''(5) No sanctions shall be imposed under this section unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this title or otherwise.'';

(5) by redesignating section 307 as section 305;

(6) in section 305, as so redesignated—

(A) in subsection (a)—

(i) by striking paragraph (1) and inserting the following:

''(1) for any person to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product unless the tuna or tuna product is dolphin-safe (as defined in section 901(d) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d))) and has been harvested in compliance with the International Dolphin Conservation Program by a nation that is a member of the Inter-American Tropical Tuna Commission;'';

(ii) by striking paragraphs (2) and (3) and inserting the following:

''(2) except as provided for in section 101(d), for any person or vessel subject to the jurisdiction of the United States to set intentionally a purse seine net on or to encircle any marine mammal in the course of tuna fishing operations in the eastern tropical Pacific Ocean, except in accordance with this title and regulations issued pursuant to this title;''; and

''(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 101;''; and

(B) in subsection (b)(2), by inserting ''(a)(5) or'' before ''(a)(6)'';

(7) by redesignating section 308 as section 306; and

(8) in section 306, as so redesignated, by striking ''section 303'' and inserting ''section 302(d)''.

(e) CLERICAL AMENDMENT.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 is amended by striking the items relating to title III and inserting the following:

''TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

''Sec. 301. Finding and policy.
''Sec. 302. Authority of the Secretary.
''Sec. 303. Reports by the Secretary.
''Sec. 304. Permits.
''Sec. 305. Prohibitions.
''Sec. 306. Authorization of appropriations.''.

SEC. 6. AMENDMENTS TO THE TUNA CONVENTIONS ACT OF 1950.

(a) Section 3(c) of the Tuna Conventions Act of 1950 (16 U.S.C. 952(c)) is amended to read as follows:

''(c) at least one shall be the Director, or an appropriate regional director, of the National Marine Fisheries Service; and''.

(b) Section 4 of the Tuna Conventions Act of 1950 (16 U.S.C. 953) is amended to read as follows:

''SEC. 4. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC ADVISORY SUBCOMMITTEE.

''(1)(A) The Secretary, in consultation with the United States Commissioners, shall appoint a committee to be known as the 'General Advisory Committee'. The General Advisory Committee shall be composed of not less than 5 and not more than 15 individuals and shall have balanced representation from the various groups participating in the fisheries included under the conventions, and from nongovernmental conservation organizations.

''(B) The General Advisory Committee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and shall be given full opportunity to examine and to be heard on all proposed programs of investigations, reports, recommendations, and regulations of the Commission. The General Advisory Committee may attend any meeting of an international commission on the invitation of that commission.

''(2)(A) The Secretary, in consultation with the United States Commissioners, shall appoint a subcommittee to be known as the 'Scientific Advisory Subcommittee'. The Scientific Advisory Subcommittee shall be composed of not less than 5 and not more than 15 qualified scientists and shall have balanced representation from the public and private sectors, including nongovernmental conservation organizations. The Scientific Advisory Subcommittee shall advise the General Advisory Committee and the Commissioners on matters relating to the conservation of ecosystems, the sustainable uses of living marine resources related to the tuna fishery in the eastern Pacific Ocean, and the long-term conservation and management of stocks of living marine resources in the eastern tropical Pacific Ocean.

''(B) In addition to carrying out the duties specified, the Scientific Advisory Subcommittee shall, as requested by the General Advisory Committee, the United States Commissioners or the Secretary, perform functions and provide assistance required by formal agreements entered into by the United States for this fishery, including the International Dolphin Conservation Program. The functions referred to in the preceding sentence may include—

''(i) the review of data from the International Dolphin Conservation Program, including data received from the Inter-American Tropical Tuna Commission;

''(ii) recommendations concerning research needs, including ecosystems, fishing practices, and gear technology research (including the development and use of selective, environmentally safe and cost-effective fishing gear), and the coordination and facilitation of such research;

''(iii) recommendations concerning scientific reviews and assessments required under the International Dolphin Conservation Program, and engaging, as appropriate, in such reviews and assessments;

''(iv) consulting with other experts as needed; and

''(v) recommending measures to ensure the regular and timely full exchange of data among the parties to the International Dolphin Conservation Program and the national scientific advisory committee of each country that participates in the program (or its equivalent entity of that country).

''(3) The Secretary, in consultation with the United States Commissioners, shall establish procedures to provide for appropriate public participation and public meetings and to provide for the confidentiality of confidential business data. The Scientific Advisory Subcommittee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and the General Advisory Subcommittee and shall be given full opportunity to examine and to be heard on all proposed programs of scientific investigation, scientific reports, and scientific recommendations of the Commission. Representatives of the Scientific Advisory Subcommittee may attend meetings of the Inter-American Tropical Tuna Commission in accordance with the rules of such Commission.

''(4)(A) The Secretary, in consultation with the United States Commissioners, shall fix the terms of office of the members of the General Advisory Committee and the Scientific Advisory Subcommittee.

''(B) Each member of the General Advisory Committee and the Scientific Advisory Subcommittee who is not an officer or employee of the Federal Government shall serve without compensation.

''(C) The General Advisory Committee and the Scientific Advisory Subcommittee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).''.

SEC. 7. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective upon—

(1) a certification by the Secretary of State to the Congress that a binding resolution of the Inter-American Tropical Tuna Commission, or other legally binding instrument, establishing the International Dolphin Conservation Program has been adopted by each nation participating in the International Dolphin Conservation Program and is in effect; and

(2) the promulgation of final regulations under section 302(a).●

ADDITIONAL COSPONSORS

S. 948

At the request of Mr. DORGAN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 948, a bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes.

S. 1005

At the request of Mr. BAUCUS, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1005, a bill to amend the Public Buildings Act of 1959 to improve the process of constructing, altering, purchasing, and acquiring public buildings, and for other purposes.

S. 1115

At the request of Mr. THURMOND, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1115, a bill to prohibit an award of costs, including attorney's fees, or injunctive relief, against a judicial officer for action taken in a judicial capacity.

S. 1212

At the request of Mr. COATS, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1212, a bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based welfare policy may be used to enable individuals and families with low income to achieve economic self-sufficiency.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. MURKOWSKI] 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. 1252

At the request of Mr. ABRAHAM, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from Tennessee [Mr. FRIST] were added as

cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to stimulate economic growth in depressed areas, and for other purposes.

AMENDMENT NO. 3082

At the request of Mr. PRYOR the names of the Senator from West Virginia [Mr. BYRD], the Senator from Nevada [Mr. BRYAN], the Senator from Vermont [Mr. LEAHY], the Senator from North Dakota [Mr. DORGAN], the Senator from Minnesota [Mr. WELLSTONE], the Senator from South Dakota [Mr. DASCHLE], and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of Amendment No. 3082 proposed to H.R. 1833, a bill to amend title 18, United States Code, to ban partial-birth abortions.

AMENDMENT NO. 3083

At the request of Mrs. BOXER the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Amendment No. 3083 proposed to H.R. 1833, a bill to amend title 18, United States Code, to ban partial-birth abortions.

SENATE RESOLUTION 198—TO MAKE TECHNICAL CORRECTIONS TO SENATE RESOLUTION 158

Mr. LOTT (for himself and Mr. MCCAIN) submitted the following resolution; which was considered and agreed to:

S. RES. 198

Resolved, That (a) paragraph 1(c) of rule XXXV of the Standing Rules of the Senate (as added by section 1 of S. Res. 158, agreed to July 28, 1995) is amended—

(1) in clause (3) by striking ''section 107(2) of title I the Ethics in Government Act of 1978 (Public Law 95–521)'' and inserting ''section 109(16) of title I of the Ethics Reform Act of 1989 (5 U.S.C App. 6)''; and

(2) in clause (4)(A) by inserting '', including personal hospitality,'' after ''Anything''.

(b) Paragraph 3 of rule XXXIV of the Standing Rules of the Senate (as added by section 2(a) of S. Res. 158, agreed to July 28, 1995) is amended—

(1) in the matter before clause (a) by striking ''paragraph 2'' and inserting ''paragraph 1''; and

(2) in clause (b) by striking ''income'' and inserting ''value''.

(c) Paragraph 4 of rule XXXIV of the Standing Rules of the Senate (as added by section 2(b)(1) of S. Res. 158, agreed to July 28, 1995) is amended by striking ''paragraph 2'' and inserting ''paragraph 1''.

AMENDMENTS SUBMITTED

THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

BROWN AMENDMENT NO. 3087

(Ordered to lie on the table.)

Mr. BROWN submitted an amendment intended to be proposed by him to the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions:

At the appropriate place, insert the following:

The Senate finds that:

The partial government shutdown of November 14, 1995 through November 20, 1995 caused great anxiety amongst over 800,000 federal workers, and;

The partial government shutdown of November 14, 1995 through November 20, 1995 added hundreds of millions of dollars to the federal deficit and cost the federal government hundreds of millions of dollars in lost productivity, and;

The partial government shutdown of November 14, 1995 through November 20, 1995 cost thousands of businesses and our federal government millions of dollars in lost revenues from the closure of federal agencies and federal parks and monuments, and;

The partial government shutdown of November 14, 1995 through November 20, 1995 caused significant financial concern to literally hundreds of thousand families because of the uncertainty of whether they would be able to pay mortgages, rent and meet monthly family expenses, and;

With the Holiday season approaching and the Congress and Administration still engaged in an effort to reach a budget agreement while the Congress attempts to complete the remaining appropriations bills before the expiration of the current Continuing Resolution on December 15, 1995 it is important that all federal workers be given assurance that their dedicated service to their country is both valued and respected and that they will not suffer needless uncertainty and hardship, because the Congress and Administration are unable to complete their work by the expiration of the current Continuing Resolution.

It is the sense of the Senate that: If the Congress and the Administration are unable to reach an agreement on an overall budget reconciliation bill and, if the Congress is unable to complete the remaining appropriations bill by the expiration of the current Continuing Resolution on December 15, 1995, that;

A new Continuing Resolution, identical to the Continuing Resolution now in effect except for the expiration date, should be adopted effective upon the expiration of the current Continuing Resolution on December 15, 1995 to ensure that government services continue, that employment of federal workers not be needlessly interrupted again, and that federal workers receive their normal compensation without delay.

DEWINE (AND DODD) AMENDMENT NO. 3088

Mr. SMITH (for Mr. DEWINE, for himself and Mr. DODD) proposed an amendment to amendment No. 3082 proposed by Mr. PRYOR to the bill, H.R. 1833, supra, as follows:

Beginning on page 1, line 3, strike ''APPROVAL'' and all that follows through line 22 on page 3 and insert the following: ''SENSE OF THE SENATE.

''It is the sense of the Senate that the Senate, should, through the Committee on the Judiciary, conduct hearings to investigate the effect of the new patent provisions of title 35, United States Code, (as amended by subtitle C of title V of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4982)) on the approval of generic drugs under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355).''.

BINGAMAN AMENDMENT NO. 3089

(Order to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, H.R. 1833, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds that—

(1) the partial government shutdown of November 14, 1995 through November 20, 1995 interrupted government services to many Americans;

(2) the partial government shutdown of November 14, 1995 through November 20, 1995, added hundreds of millions of dollars to the Federal deficit and cost the Federal Government hundreds of millions of dollars in lost productivity;

(3) the partial government shutdown of November 14, 1995 through November 20, 1995, cost thousands of businesses and the Federal Government millions of dollars in lost revenues from the closure of Federal agencies and Federal parks and monuments:

(4) the partial government shutdown of November 14, 1995 through November 20, 1995, caused significant financial concern to literally hundreds of thousands of families because of the uncertainty of whether they would be able to pay mortgages, rent and meet monthly family expenses; and

(5) with the holiday season approaching and Congress and the Administration still engaged in an effort to reach a budget agreement while the Congress attempts to complete work on the remaining appropriations bills before the expiration of the continuing resolution (House Joint Resolution 123) on December 15, 1995, it is important that all Federal workers be given assurance that their dedicated service to the United States is both valued and respected and that those workers will not suffer needless uncertainty and hardship because Congress and the Administration are unable to complete their work prior to the expiration of such resolution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if Congress and the Administration are unable to reach an agreement on an overall budget reconciliation bill and if Congress is unable to complete work on the remaining appropriations bills by December 15, 1995, the data on which the continuing resolution (House Joint Resolution 123) expires, a new continuing resolution, identical to House Joint Resolution 123 except for the expiration date, should be adopted effective on December 16, 1995, to ensure that Federal Government services continue, that employment of Federal workers not be again needlessly interrupted, and that Federal workers receive their normal compensation without delay.

BROWN AMENDMENT NO. 3090

Mr. BROWN proposed an amendment to the bill, H.R. 1833, supra, as follows:

On page 2, line 6, strike ''Whoever'' and insert ''Any physician who''.

On page 2, line 10 strike ''As'' and insert ''(1) As''.

On page 2, between lines 13 and 14, insert the following:

''(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions. *Provided,* however, that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

SMITH AMENDMENT NO. 3091

Mr. SMITH proposed an amendment to the bill, H.R. 1833, supra, as follows:

On page 3, strike lines 8 through and including 16.

FEINSTEIN (AND OTHERS) AMENDMENT NO. 3092

Mrs. FEINSTEIN (for herself, Mr. SIMPSON, Mrs. BOXER, Mr. SIMON, Ms. MOSELEY-BRAUN, and Mr. BRYAN) proposed an amendment to the bill, H.R. 1833, supra, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the United States has the most advanced medical training programs in the world;

(2) medical decisions should be made by trained medical personnel in consultation with their patients based on the best medical science available;

(3) it is the role of professional medical societies to develop medical practice guidelines and it is the role of medical education centers to provide instruction on medical procedures;

(4) the Federal Government should not supersede the medical judgment of trained medical professionals or limit the judgment of medical professionals in determining medically appropriate procedures;

(5) the Federal criminal code is an inappropriate and dangerous means by which to regulate specific and highly technical medical procedures; and

(6) the laws of 41 States currently restrict post-viability abortions.

(b) SENSE OF SENATE.—It is the sense of the Senate that Congress should not criminalize a specific medical procedure.

SEC. 2. RULE OF CONSTRUCTION.

Nothing in Federal law shall be construed to prohibit the States, local governments, local health departments, medical societies, or hospital ethical boards from regulating, restricting, or prohibiting post-viability abortions to the extent permitted by the Constitution of the United States.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will hold an open markup on December 12, 1995, at 9:30 a.m. in room 485 of the Russell Senate Office Building. The markup agenda will include S. 814, to provide for the reorganization of the Bureau of Indian Affairs, and S. 1159, to establish an American Indian Policy Information Center.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, December 7, at 9:30 a.m. for a hearing on S. 94, prohibition on the consideration of retroactive tax increases.

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

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, December 7, 1995, at 10 a.m. in SD226.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, December 7, 1995, to hold a hearing to receive testimony on ''An Agenda for the Information Age: Managing Senate Technology.''

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

ADDITIONAL STATEMENTS

THE PRESIDENT'S VETO OF THE BALANCED BUDGET RECONCILIATION ACT OF 1995

● Mr. FRIST. Mr. President, I would like to join my colleagues in expressing my disappointment in President Clinton's veto of the Balanced Budget Act of 1995. The Republican plan would have resulted in a balanced Federal budget in 2002, a plan that would have finally restrained the growth of Federal spending to a manageable level. And yet, President Clinton felt compelled to veto our plan. He felt compelled to protect his priorities.

President Clinton's statements regarding protecting his priorities belie one sad truth buried in his rhetoric: The only thing that is not a priority to this President is balancing the budget. There is only lip service one day, a speech another, a third budget plan this week. If we are to believe that President Clinton is serious about his commitment to balancing the budget, why is he now submitting a third budget? Why did he first submit two budgets that resulted in deficits of over $200 billion in the year 2000 and beyond?

The only logical conclusion to be drawn from the President's actions is that he is trying to deal in the most politically popular way he can with a Congress that is unwavering in one commitment, a commitment to the American people to, once and for all, put the U.S. Government on the road to fiscal health.

The future could be so bright if the President would only join us in agreeing to a balanced budget. We will compromise, but not on the principle that the budget must be balanced using credible, honest projections. There is a growing consensus among respected economists that interest rates will drop significantly, 1, maybe 2 percent, if a balanced budget is reached. This would mean cheaper home mortgages, less to pay for student loans, lower credit card payments. American families will save again. Without a balanced budget agreement, though, there will be profoundly negative consequences. Chairman Greenspan of the Federal Reserve predicts a ''quite negative'' reaction in the financial markets if no deal is reached, and a sharp increase in long-term interest rates.

And yet we are mired here in a disagreement that is disheartening to all of us, especially those of us who were elected just last year, those of us who heard from thousands of citizens across our respective States, those of us who heard, ''balanced the budget'' above all else.

The disagreement between Congress and the President comes down to one issue: the difference between credibility and something for nothing. Syndicated columnist Ben Wattenberg makes a compelling case in yesterday's edition of USA Today that the country's social ills boil down to one fundamental shift in the Nation's attitude: The attitude that it is possible to gain something for nothing. Whether it is crime, poor education, or even the epidemic problem of illegitimacy, Mr. Wattenberg traces the cause of these ills to the lack of personal responsibility and the lack of effort, hard work, and even sacrifice that is necessary to gain anything worth having. Unfortunately, the White House's phony numbers are the means to appear to balance the budget, without making any adjustments or imposing any discipline on Government spending.

The Republican plan, on the other hand, recognizes the need for adjustment, reform, and downsizing of the Federal Government. It reforms Government programs in a sensible way and provides tax relief for hardworking American families and to spur investment. It will result in long-term benefits—a stable and growing economy, lower interest rates, greater investment, higher incomes, millions of new jobs. The benefits of the Republican plan are not unlike the gratification of earning one's own way in the world, completing an education, or staying married for 40 years. Hard work, but definitely worth it.

So, I close with these thoughts, Mr. President. The American people will rise to any occasion, and if we ask them to help us address this fiscal crisis, they will. What they won't do is allow this generation to burden the next with an impossible debt. I am disappointed that the President chose not to sign the historic Balanced Budget Act of 1995, but I remain hopeful that the administration will trust the American people and agree to a balanced budget. We must.●

TRIBUTE TO DR. THOMAS E. BELLAVANCE

● Mr. SARBANES. Mr. President, I rise today to pay tribute to Dr. Thomas E. Bellavance as he retires as the president of Salisbury State University.

In 1980, when the Board of Trustees of State Universities and Colleges unanimously selected Dr. Bellavance to be the new president of Salisbury State College, Thom arrived on campus with

a specific mission: to provide, as he expressed it, ''an education of the whole person within the context of a value-oriented curriculum—an education that is not merely training in a specialty, but a matter of nurturing individuals to be civil, articulate, and productive members of society.''

For the past 15 years, Dr. Bellavance has focused on his vision, transforming the institution from a small State college, primarily attended by students from Maryland's Eastern Shore, to a highly-respected regional university that is nationally recognized as one of the best among American colleges and universities.

During Dr. Bellavance's tenure, applications for admission have more than doubled and average SAT scores have increased from 848 to 1085. When faced with the reality of difficult economic times, Dr. Bellavance sought private funding, establishing three endowed schools, the Franklin P. Perdue School of Business, the Richard A. Henson School of Science and Technology, and the Charles R. and Martha N. Fulton School of Liberal Arts. Also established were scholarships for deserving students, and a foundation strongly supported by the community. University assets have dramatically increased from $32,261 in 1980 to over $16 million. Today over $800,000 is available to assist students with financing their education.

In his pursuit of academic excellence, Thom Bellavance has helped create a true academic community—a community of scholars with an abundance of opportunities to learn and grow and a strong sense of family among the students, faculty, and administrators. In the process, he has earned the love and respect of the entire university community.

In a nation which believes that a person's merit and talent should take them as far as they can go, we are indeed fortunate to have educators like my friend, Thom Bellavance, who have fostered a path which allows our young people to maximize their potential. When this happens, we gain a person who contributes to society at a higher level. This is best exemplified by the fact that Salisbury State students contributed over 300,000 hours of community service in the 1993–94 calendar year.

On the occasion of his retirement, I join with the Salisbury State University community in saluting Dr. Bellavance and expressing deep appreciation for his exceptional leadership. As stated in a proclamation recently presented to Dr. Bellavance by the University Forum, ''He leaves Salisbury State University immeasurably better than he found it.''

Mr. President, I know that you and all of our colleagues will join me in wishing Dr. Thomas Bellavance the very best in the years ahead.●

ROMANIA'S NATIONAL DAY

● Mr. COATS. Mr. President, on December 1, Romania celebrated the 75th anniversary of its founding as a modern country. While its roots as a nation actually go back as far as the Roman Empire, its modern history began on December 1, 1918, when Romania, as we know it today, was created.

Seventy-seven years ago, there were roughly 50 nation states in the world. Half of these were considered democracies. Today more than 180 nations in the world are democracies, with this number on the rise. Romania, I am pleased to note, is not only a member of the international community but of the community of democracies.

Since its revolution in 1989, Romania has made strides in democratic reform and the development of a free-market economy. Difficult decisions have been to bring down inflation, bring in foreign investment, and privatize government. GDP which had dropped initially has been growing over the last 3 years. Inflation has been reduced from 300 to 60 percent in 1994 and is expected to be less than 30 percent this year. Unemployment is down to 10 percent. Foreign investment has been greater in the last 6 months than in the previous 4 years. There are more steps which must be taken to strengthen democratic institutions, further economic growth, and develop rule of law. I encourage Romania to keep its commitment to these goals.

Romania has actively pursued improving relations with the West. It was the first of the former Eastern bloc countries to sign the Partnership for Peace Program. In 1994 it became a member of the Council of Europe. Romania has even sent troops and medical staff to participate in peacekeeping efforts in Angola. On September 26 President Iliescu made his first official visit to Washington, DC, meeting with the President, Cabinet members, and Congressmen.

I hope my colleagues will join with me in congratulating Romania on its national day and extending to the people of Romania best wishes as they celebrate the founding of their nation.●

TRIBUTE TO ROSA PARKS

● Mr. LEVIN. Mr. President, 40 years ago this month—December 1955—in Montgomery, AL, the modern civil rights movement began when Rosa Parks refused to give up her seat and move to the back of the bus. The strength and spirit of this courageous woman captured the consciousness of not only the American people but the entire world.

Rosa Parks' arrest for violating the city's segregation laws was the catalyst for the Montgomery bus boycott. Her stand on that December day in 1955 was not an isolated incident but part of a lifetime of struggle for equality and justice. Twelve years earlier, in 1943, Rosa Parks had been arrested for violating another one of the city's bus-related segregation laws requiring blacks to pay their fares at the front of the bus then get off of the bus and reboard from the rear of the bus. The driver of that bus was the same driver with whom she would have her confrontation years later.

The rest is history, the boycott which Rosa Parks began was the beginning of an American revolution that elevated that status of African-Americans nationwide and introduced to the world a young leader who would one day have a national holiday declared in his honor, the Reverend Martin Luther King, Jr.

Mr. President, on the occasion of this important 40th anniversary, I want to pay tribute to Rosa Parks, the gentle warrior who decided that she would no longer tolerate the humiliation and demoralization of racial segregation on a bus.

We have come a long way toward achieving Dr. King's dream of justice and equality for all. But we still have work to be done. Let us rededicate ourselves to continuing the struggle.●

BUDGET SCOREKEEPING REPORT

Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through December 6, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1996 concurrent resolution on the budget (H. Con. Res. 67), show that current level spending is above the budget resolution by $13.5 billion in budget authority and above the budget resolution by $17.3 billion in outlays. Current level is $43 million below the revenue floor in 1996 and $0.7 billion below the revenue floor over the 5 years 1996–2000. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $262.9 billion, $17.3 billion above the maximum deficit amount for 1996 of $245.6 billion.

Since my last report, dated November 17, 1995, the President signed the Treasury, Postal Service and General Government Appropriations Act (P.L. 104–52), the Legislative Branch Appropriations Act (P.L. 104–53), and the Alaska Power Administration Sale Act (P.L. 104–58). Congress also cleared, and the President signed, the second (P.L. 104–54) and third (P.L. 104–56) continuing resolutions. Congress also cleared the Defense Appropriations Act (P.L. 104–61); pursuant to article 1, section 7 of the Constitution, this act became

law without the President's signature. These actions changed the current level of budget authority and outlays. In addition, the revenue aggregates have been revised to reflect the recommended level in House Concurrent Resolution 67. My last report had revised the revenue aggregates pursuant to section 205(b)(2) of House Concurrent Resolution 67 for purposes of consideration of H.R. 2491.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, December 7, 1995.

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

DEAR MR. CHAIRMAN: The attached report for fiscal year 1996 shows the effects of Congressional action on the 1996 budget and is current through December 6, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1996 Concurrent Resolution on the Budget (H. Con. Res. 67). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated November 16, 1995, the President signed the Treasury, Postal Service and General Government Appropriations Act (P.L. 104–52), the Legislative Branch Appropriations Act (P.L. 104–53), and the Alaska Power Administration Sale Act (P.L. 104–58). Congress also cleared, and the President signed, the second (P.L. 104–54) and third (P.L. 104–56) continuing resolutions. Congress also cleared the Defense Appropriation Act (P.L. 104–61); pursuant to Article 1, Section 7 of the Constitution, this act became law without the President's signature. These actions changed the current level of budget authority and outlays. In addition, at the request of the Senate Committee on the Budget, the revenue estimates shown for the concurrent resolution have been changed pursuant to Section 205(b)(2) of H. Con. Res. 67.

Sincerely,

JUNE E. O'NEILL.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1996, 104TH CONGRESS, 1ST SESSION AS OF CLOSE OF BUSINESS DEC. 6, 1995

[In billions of dollars]

	Budget Resolution (H. Con. Res. 67)	Current Level [1]	Current Level Over/ Under Resolution
ON–BUDGET			
Budget Authority	1,285.5	1,299.0	13.5
Outlays	1,288.1	1,305.4	17.3
Revenues:			
1996	1,042.5	1,042.5	[2] — 0
1996–2000	5,691.5	5,690.8	— 0.7
Deficit	245.6	262.9	17.3
Debt Subject to Limit	5,210.7	4,900.0	— 310.7
OFF–BUDGET			
Social Security Outlays:			
1996	299.4	299.4	0
1996–2000	1,626.5	1,626.5	0
Social Security Revenues:			
1996	374.7	374.7	0
1996–2000	2,061.0	2,061.0	0

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] Less than $50 million.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996, AS OF CLOSE OF BUSINESS DEC. 6, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	—	—	1,042,557
Permanents and other spending legislation	830,272	798,924	—
Appropriation legislation	—	242,052	—
Offsetting receipts	(200,017)	(200,017)	—
Total previously enacted	630,254	840,958	1,042,557
ENACTED THIS SESSION			
Appropriation bills:			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104–6)	(100)	(885)	—
1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104–19)	22	(3,149)	—
Agriculture (P.L. 104–37)	62,602	45,620	—
Defense (P.L. 104–6)	243,301	163,223	—
Energy and Water (P.L. 104–46)	19,336	11,502	—
Legislative Branch (P.L. 105–53)	2,125	1,977	—
Military Construction (P.L. 104–32)	11,177	3,110	—
Transportation (P.L. 104–50)	12,682	11,899	—
Treasury, Postal Service (P.L. 104–52)	15,080	12,584	—
Authorization bills:			
Self-Employed Health Insurance Act (P.L. 104–7)	(18)	(18)	(101)
Alaska Native Claims Settlement Act (P.L. 104–42)	1	1	—
Fishermen's Protective Act Amendments of 1995 (P.L. 104–43)	—	(*)	—
Perishable Agricultural Commodities Act Amendments of 1995 (P.L. 104–48)	1	(*)	1
Alaska Power Administration Sale Act (P.L. 104–58)	(20)	(20)	—
Total enacted this session	366,191	245,845	(100)
CONTINUING RESOLUTION AUTHORITY			
Further Continuing Appropriations (P.L. 104–56) [1]	167,467	86,812	—
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	135,049	131,736	—
Total Current Level [2]	1,298,961	1,305,352	1,042,457
Total Budget Resolution	1,258,500	1,288,100	1,042,500
Amount remaining:			
Under Budget Resolution	—	—	43
Over Budget Resolution	13,461	17,252	—

[1] This is an estimate of discretionary funding based on a full year calculation of the continuing resolution that expires December 15, 1995. Included in this estimate are the following appropriation bills: Commerce, Justice, State; District of Columbia; Foreign Operations; Interior; Labor, HHS, Education; and Veterans, HUD.

[2] In accordance with the Budget Enforcement Act, the total does not include $3,400 million in budget authority and $1,590 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

* Less than $500,000.

Notes: Detail may not add due to rounding. Numbers in parentheses are negative.●

CONFEREES MOVING IN WRONG DIRECTION ON THE INTERNET

● Mr. FEINGOLD. Mr. President, I rise to share with my colleagues my great concern about the actions of the House telecommunications conferees.

Despite what appeared to be some movement away from the regulation of constitutionally protected speech, I understand that the conferees adopted an amendment yesterday which would subject adult Internet users to criminal penalties for so-called indecent speech. Rather than focusing on materials that are truly harmful to minors, the language agreed to yesterday would prohibit great works of literature from being made available on line. It would make subject to criminal penalties frank discussions between adults about the prevention of AIDS. This amendment will extinguish many on-line support groups dealing with issues such as child abuse and sexual assault. It will likely place severe limitations on the materials discussed on many online scientific forums. In the ultimate irony, the amendment does virtually nothing to address the problem of the already illegal victimization of children over computer networks. Rather than focus on real issues and real concerns, this amendment focuses on indecency. It places blame on a technology rather than on the perpetrators of crimes against children.

Mr. President, despite the fact that the materials and communications on the Internet that are of the greatest concern to many parents, such as obscenity, child solicitation, and child pornography, are already subject to criminal penalties, and despite the fact that technologies already exist to allow parents to control what their children have access to on the Internet including indecent materials, the House conferees chose to take this unwise step towards censorship.

Mr. President, there is still time to reverse this action and for the conferees to direct their efforts towards providing parents with even greater ability to protect their children using tools offered in the market place. I urge my colleagues to recognize just what this amendment will mean if it remains in the telecommunications bill. I urge them to recognize that indecency is not the same as obscenity or pornography. The distribution of obscene materials on the Internet is already illegal and those crimes are already being aggressively prosecuted.

Indecent speech, on the other hand, is far different than obscenity and is protected by the constitution. Indecency includes four letter words that many adults use routinely in their everyday speech. Indecent words include those that are among the first words many children speak, not because they learned them from the Internet, but because they heard them in the school yard, in child care settings, and in some cases, in their own homes. While it is unfortunate that children are exposed to such speech at young ages, it is not a reason to censor constitutionally protected speech between adults on the Internet. Creating criminal penalties for indecency as stringent as those imposed on traffickers of obscenity is extreme, unwarranted, and unnecessary.

As I said earlier this week in this Chamber, this type of law will have a tremendous chilling effect on speech over the Internet. What two adults can say over the phone to one another, they will not be able to say over the Internet for fear a minor might read their words. The fact that America Online censored the word ''breast'' on their service, albeit temporarily, should forewarn members of things to come. Screening by online service providers will be necessary if they wish to

protect themselves from criminal liability. It is quite conceivable that discussions involving scientific terms for other bodily parts will no longer be allowed for fear they might offend a user and land the service in court.

Guaranteeing the Internet is free of speech restrictions, other than the statutory restrictions on obscenity and pornography which already exist, should be of concern to all Americans who want to be able to freely discuss issues of importance to them regardless of whether others might view those statements as offensive or distasteful.

Shifting political views about what types of speech are unsuitable should not be allowed to determine what is or is not an appropriate use of electronic communications. While the current target of our political climate is indecent speech—the so-called seven dirty words—a weakening of First Amendment protections could lead to the censorship of other crucial types of speech, including religious expression and political dissent.

I believe the censorship of the Internet is a perilous road for the Congress to walk down. It sets a dangerous precedent for First Amendment protections and it is unclear where that road will end.

I urge the conferees to reject restrictions on constitutionally protected speech when the full conference committee votes on this legislation.●

NOMINATIONS RE-REFERRED TO THE COMMITTEE ON ARMED SERVICES

Mr. HELMS. Madam President, as in executive session, I ask unanimous consent that the navy nominations beginning with Brian G. Buck (Reference PN715), which was favorably reported by the Committee on Armed Services and placed on the executive calendar on December 5, 1995, be re-referred to the Committee on Armed Services.

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

ICC TERMINATION ACT

Mr. HELMS. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2539, a bill to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 2539) entitled ''An Act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes'', and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Transportation and Infrastructure, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. Shuster, Mr. Clinger, Mr. Petri, Mr. Coble, Ms. Molinari, Mr. Oberstar, Mr. Rahall, and Mr. Lipinski.

From the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. Hyde, Mr. Moorhead, and Mr. Conyers.

Mr. HELMS. Madam President, I move that the Senate insist on its amendment, agree to the request of the House for a conference, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. PRESSLER, Mr. STEVENS, Mr. BURNS, Mr. LOTT, Mrs. HUTCHISON, Mr. ASHCROFT, Mr. HOLLINGS, Mr. INOUYE, Mr. EXON, Mr. ROCKEFELLER, and Mr. BREAUX conferees on the part of the Senate.

MAKING TECHNICAL CHANGES TO SENATE RESOLUTION 158

Mr. HELMS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 198 submitted earlier today by Senators LOTT and MCCAIN.

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

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 198) to make certain technical changes to S. Res. 158.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Under current Senate rules, a Member, officer, or employee may accept travel reimbursement from a foreign government or foreign educational or charitable organization. Will a Member, officer, or employee be permitted to continue participating in such programs under the new gift rule?

Mr. LEVIN. Yes. The new gift rule, effective January 1, 1996, will, however, change the current approval process. Now, a Member, officer, or employee must receive prior approval of the Ethics Committee in order to participate in such travel. After January 1, the Member, officer, or employee will no longer be required to seek authorization from the Ethics Committee. An employee, however, must obtain authorization from the Member or officer for whom he or she works.

Mr. MCCONNELL. So the absence of a separate section in the new gift rule addressing foreign-sponsored travel does not mean foreign-sponsored travel has been prohibited?

Mr. LEVIN. To the contrary, foreign-sponsored travel is treated like any other travel: so long as it is in connection with the duties of the Member, officer, or employee; it is not substantially recreational in nature; it is not provided by a registered lobbyist or foreign agent; and it is properly disclosed, and authorized, in the case of an employee, reimbursement for expenses connected with such travel may be accepted.

Mr. MCCONNELL. I appreciate the clarification.

Section 1(c)(9) of the new gift rule creates an exception from the gift limitation for informational material sent to a Senate office. The current practice in the Senate also permits the receipt of informational material with some limitations. First, the material must be provided by the person or entity which produces, publishes, or creates the informational material. Second, current practice also permits those who produce, publish, or create the material to provide a set of books, tapes, or discs. For example, several years ago PBS provided each Senator with a set of video tapes of its series, ''The Civil War.'' However, the Senate does not permit a Senator to accept a collection of materials, such as a specialized reporting service or other collections issues periodically. For example, a Member could not receive a set of encyclopedias, or the U.S. Code Annotated. Is it the intent to incorporate these limitations within the new gift rule?

Mr. LEVIN. Yes, the exception for informational materials is intended to foster communication with the Senate. Items such as books, tapes, and magazine subscriptions may continue to be received in the office, so long as they were provided by the author, publisher, or producer and so long as the informational materials did not constitute a specialized reporting service or other collection of the type you have described.

Mr. MCCONNELL. I thank the Senator for the clarification. The new gift rule contains an exception for employments benefits, such as a pension plan. It permits a Member, officer, or employee to participate in an employee welfare and benefits plan maintained by a former employer. Current Senate rules and practice also permit such continued participation, with one limitation. To the extent a Member, officer, or employee participates in such a plan of a former employer, the participant may not accept continued contributions from that former employer. Is it intended that the new gift rule incorporate this current Senate practice?

Mr. LEVIN. Yes, I say to the Senator. It is our intent that a Member, officer, or employee be permitted to maintain his or her participation in a plan, but not to receive continued contributions from a former employer.

Mr. MCCONNELL. I appreciate the clarification.

Mr. LEVIN. Madam President, I rise to clarify that the resolution we are about to pass contains only technical

clarifications of the Senate gift rule and would not in any way alter the substance or the intent of that rule.

This technical corrections measure would correct an erroneous cross reference in the text of the gift rule and make three minor corrections to the text of the Brown amendment on reporting of income and assets.

It would also clarify that the personal friendship exception, which by its terms applies to ''anything'' accepted on the basis of personal friendship under the circumstances described, would cover personal hospitality provided by a friend. This clarification is being made because of confusion over the relationship between the personal friendship exception and the personal hospitality exception. In my view, the exception for ''anything'' provided on the basis of personal friendship already covers personal hospitality, so this clarification would not change either the substance or the intent of the rule.

Mr. WELLSTONE. Mr. President, I appreciate all of the work of the Ethics Committee staff and others to ensure that the tough new gift restrictions scheduled to go into effect January 1, 1996, will not have any technical problems associated with their implementation. The Ethics Committee has provided very useful technical guidance, and I believe that its effort to clarify questions now will generally improve the effective implementation of the new rule.

I do, however, have a concern about one interpretation described by Senator MCCONNELL and LEVIN, and wanted to outline that concern for the record. In one of the several colloquies between Senator LEVIN and Senator MCCONNELL designed to provide interpretive guidance to the Ethics Committee, a question is raised about the exception regarding informational materials provided to Senators and staff. This exchange is designed to ensure that acceptance of sets of books, such as encyclopedias or the annotated U.S. Code, would continue under the new rule to be prohibited—as is true under current Senate practice. This exchange is an effort to apply a tough, narrow interpretative standard to this provision, and I support its intent.

However, it might be inferred from the statements in the colloquy that the provision of all videotape—or even CD or audiotape—sets should be exempted from the new rule. An example is offered by Senator MCCONNELL of a series of videotapes produced by the Public Broadcasting Service—its much-acclaimed series on the Civil War—which years ago was permitted, under current rules, to be given to Members of Congress. One can imagine other examples of such videotape sets being offered to Senators, such as the recent PBS series on baseball, which might be treated similarly under current rules.

It is true current Senate rules would not prohibit members from receiving such taped sets. However, I have always understood the intent of the informational materials exception in the new rule to be to foster free and unfettered communication with Members of the Senate and staff, allowing them to accept information that is generally designed to inform their legislative or other policy work.

In my judgment, a television entertainment series on the Civil War, or on the history of baseball, or on a similar topic, should generally be considered in a different light than other informational material that might, for example, help legislators form judgments about OSHA reform, the EPA, or some other topic. Thus such sets of videotapes should be considered gifts subject to the limits contained in the new rule. I believe the Ethics Committee should make judgments about how to interpret and apply this provision on a case-by-case basis, considering a number of factors in its interpretation, including most importantly the public policy nature of the informational material and its usefulness in informing legislators on appropriate issues.

While the technical amendments do not address this issue, this question has been raised now and I thought it would be useful to offer my own views for the further guidance of the Committee. I urge the Committee to consider carefully its interpretation of this provision. I will monitor closely the implementation of the rule in this area to ensure that it does not allow a loophole to develop that may be subject to abuse. If such abuse were to take place, I intend to move quickly to stop it.

Mr. HELMS. Madam President, I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

So the resolution (S. Res. 198) was agreed to, as follows:

S. RES. 198

Resolved, That (a) paragraph 1(c) of rule XXXV of the Standing Rules of the Senate (as added by section 1 of S. Res. 158, agreed to July 28, 1995) is amended—

(1) in clause (3) by striking ''section 107(2) of title I the Ethics in Government Act of 1978 (Public Law 95–521)'' and inserting ''section 109(16) of title I of the Ethics Reform Act of 1989 (5 U.S.C. App. 6)''; and

(2) in clause (4)(A) by inserting '', including personal hospitality,'' after ''Anything''.

(b) Paragraph 3 of rule XXXIV of the Standing Rules of the Senate (as added by section 2(a) of S. Res. 158, agreed to July 28, 1995) is amended—

(1) in the matter before clause (a) by striking ''paragraph 2'' and inserting ''paragraph 1''; and

(2) in clause (b) by striking ''income'' and inserting ''value''.

(c) Paragraph 4 of rule XXXIV of the Standing Rules of the Senate (as added by section 2(b)(1) of S. Res. 158, agreed to July 28, 1995) is amended by striking ''paragraph 2'' and inserting ''paragraph 1''.

MAKING CERTAIN TECHNICAL CORRECTIONS IN LAWS RELATING TO NATIVE AMERICANS

Mr. HELMS. Madam President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of S. 1431 and further that the Senate proceed to its immediate consideration.

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

The clerk will report.

A bill (S. 1431) to make certain technical corrections in laws relating to Native Americans, 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. MCCAIN. Madam President, I rise to urge the Senate to pass S. 1431, a noncontroversial, no-cost bill whose sole purpose is to extend statutory deadlines for completing two Indian water rights settlements previously enacted and funded by the Congress. The authorizations for the Yavapai-Prescott and San Carlos Apache Water Rights settlements are set to expire on December 31, 1995.

This bill's two sections are identical to two of the 22 provisions in S. 325, which the Senate passed by unanimous consent on October 31, 1995. Because it appeared doubtful that the House and Senate could complete action on S. 325 by the end of the year, I introduced this separate bill on November 28, 1995, when it was referred to the Committee on Indian Affairs. I believe it is necessary to pass these two time-sensitive provisions as separate legislation so that the House can act before the end of this session.

Section 1 of S. 1431 would extend by 6 months the deadline for completing the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994. Under the original Act, the Secretary of the Interior is required to publish in the Federal Register by December 31, 1995, a statement of findings that includes a finding that contracts for the assignment of Central Arizona Project water have been executed. Due to several unforeseen developments, the Department of the Interior, the Yavapai-Prescott Tribe, the City of Prescott and the City of Scottsdale have concluded that additional time is necessary to finalize agreements and publish the Secretary's findings in the Federal Register. Accordingly, the amendment extends the deadline for completion of the settlement to June 30, 1996.

Section 2 of the bill amends the San Carlos Apache Tribe Water Rights Settlement Act of 1992 to extend by one year the deadline for the settlement parties to complete all actions needed to effect the settlement, in particular to conclude agreements between the San Carlos Apache Tribe and the Phelps-Dodge Corporation, and between the Tribe and the Town of Globe. This amendment would extend the deadline for settlement to December

31, 1996. The Department of the Interior, the San Carlos Apache Tribe and the other settlement parties all support this extension.

Madam President, it is extremely important for Congress to provide additional time to complete these historic settlements. The San Carlos Apache and Yavapai-Prescott agreements are the product of years of painstaking negotiation and effort by many parties. No one, and especially not the United States, would benefit from a lapse in the statutory authority for completing these settlements. Without the time extensions contained in S. 1431, the many fruits of these collective efforts could be lost. We simply cannot permit that to happen. I urge passage of the bill.

Mr. HELMS. Madam 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. 1431) was deemed read the third time, and passed, as follows:

S. 1431

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

SECTION. 1. YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 1994.

Section 112(b) of the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994 (108 Stat. 4532) is amended by striking ''December 31, 1995'' and inserting ''June 30, 1996''.

SEC. 2. SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1992.

Section 3711(b)(1) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (title XXXVII of Public Law 102–575) is amended by striking ''December 31, 1995'' and inserting ''December 31, 1996''.

ORDERS FOR FRIDAY, DECEMBER 8, 1995

Mr. HELMS. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m., Friday, December 8, that following the prayer, the Journal of the 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 the Senate then proceed to the consideration of Senate Joint Resolution 31, the constitutional amendment regarding the desecration of the flag.

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

PROGRAM

Mr. HELMS. For the information of all Senators, by a previous consent agreement, the cloture motion on the motion to proceed to Senate Joint Resolution 31 was withdrawn earlier, and the Senate will begin debate on the constitutional amendment regarding flag desecration at 10 a.m. tomorrow.

There will be no rollcall votes during Friday's session of the Senate. It is hoped that during Friday's session of the Senate, we will reach a consent agreement in which all amendments to the flag desecration bill would be debated on Monday. If an agreement can be reached, it may be possible that there will be no rollcall votes during Monday's session, and any vote ordered on Monday will occur on Tuesday. If an agreement cannot be reached on the constitutional flag amendment on Friday, then votes will be possible during Monday's session on amendments to Senate Joint Resolution 31, but those votes will not occur before 6 p.m. Monday.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. HELMS. If there be no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:17 p.m., adjourned until Friday, December 8, 1995, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 7, 1995:

THE JUDICIARY

CHARLES N. CLEVERT, JR., OF WISCONSIN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN VICE TERENCE T. EVANS, ELEVATED.

BERNICE B. DONALD, OF TENNESSEE, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE VICE ODELL HORTON, RETIRED.

DEPARTMENT OF STATE

CHARLES H. TWINING, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EQUATORIAL GUINEA.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. THOMAS R. CASE, 000–00–0000.
BRIG. GEN. DONALD G. COOK, 000–00–0000.
BRIG. GEN. CHARLES H. COOLIDGE, JR., 000–00–0000.
BRIG. GEN. JOHN R. DALLAGER, 000–00–0000.
BRIG. GEN. RICHARD L. ENGEL, 000–00–0000.
BRIG. GEN. MARVIN R. ESMOND, 000–00–0000.
BRIG. GEN. BOBBY O. FLOYD, 000–00–0000.
BRIG. GEN. ROBERT H. FOGLESONG, 000–00–0000.
BRIG. GEN. JEFFREY R. GRIME, 000–00–0000.
BRIG. GEN. JOHN W. HAWLEY, 000–00–0000.
BRIG. GEN. MICHAEL V. HAYDEN, 000–00–0000.
BRIG. GEN. WILLIAM T. HOBBINS, 000–00–0000.
BRIG. GEN. JOHN D. HOPPER, JR., 000–00–0000.
BRIG. GEN. RAYMOND P. HUOT, 000–00–0000.
BRIG. GEN. TIMOTHY A. KINNAN, 000–00–0000.
BRIG. GEN. MICHAEL C. KOSTELNIK, 000–00–0000.
BRIG. GEN. LANCE W. LORD, 000–00–0000.
BRIG. GEN. RONALD C. MARCOTTE, 000–00–0000.
BRIG. GEN. GREGORY S. MARTIN, 000–00–0000.
BRIG. GEN. MICHAEL J. MCCARTHY, 000–00–0000.
BRIG. GEN. JOHN F. MILLER, JR., 000–00–0000.
BRIG. GEN. CHARLES H. PEREZ, 000–00–0000.
BRIG. GEN. STEPHEN B. PLUMMER, 000–00–0000.
BRIG. GEN. DAVID A. SAWYER, 000–00–0000.
BRIG. GEN. TERRYL J. SCHWALIER, 000–00–0000.
BRIG. GEN. GEORGE T. STRINGER, 000–00–0000.
BRIG. GEN. GARY A. VOELLGER, 000–00–0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. MARCUS A. ANDERSON, 000–00–0000, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. RICHARD M. SCOFIELD, 000–00–0000, U.S. AIR FORCE.