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Senate

The Senate met at 3 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Lloyd John Ogilvie, offered the following prayer:

Sovereign Lord, help us to see our work here in Government as our divine calling and mission. Whatever we are called to do today, we want to do our very best for Your glory. Our desire is not just to do different things, but to do the same old things differently: with freedom, joy, and excellence. Give us new delight for matters of drudgery, new patience for people who are difficult, new zest for unfinished details. Be our lifeline in the pressures of deadlines, our rejuvenation in routines, and our endurance whenever we feel enervated. May we spend more time talking to You about issues than we do talking about issues to others. So may our communion with You give us deep convictions and high courage to defend them. Spirit of the living God, fall afresh on us so we may serve with fresh dedication today. In the Lord's name. 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 4 p.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. BREAUX addressed the Chair.

The PRESIDENT pro tempore. The Senator from Louisiana.

Mr. BREAUX. I understand there are two bills due for their second reading that are at the desk.

The PRESIDENT pro tempore. The Senator is correct.

MEASURE PLACED ON THE CALENDAR—S. 1438

Mr. BREAUX. Mr. President, I ask that the clerk read S. 1438 by title.

The PRESIDENT pro tempore. The clerk will read the bill.

The assistant legislative clerk read as follows:

A bill (S. 1438) to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes.

Mr. BREAUX. Mr. President, I object to any further proceedings on this matter at this time.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

MEASURE PLACED ON THE CALENDAR—S. 1441

Mr. BREAUX. Mr. President, concerning the second bill, I ask that the clerk read the second bill by title.

The PRESIDING OFFICER (Mr. FRIST). The clerk will read the second bill.

The assistant legislative clerk read as follows:

A bill (S. 1441) to authorize appropriations for the Department of State for the fiscal years 1996 through 1999, and for other purposes.

Mr. BREAUX. Mr. President, I object to any further proceedings on this matter at this time as well.

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

Mr. BREAUX. Mr. President, I understand there is a 5-minute limitation. I ask unanimous consent that I be able to speak for no more than 10 minutes.

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

THE BUDGET IMPASSE

Mr. BREAUX. I thank the Chair.

Mr. President, as the Congress comes back from the weekend recess, a lot of people I know throughout the country, and in my State of Louisiana in particular, have been wondering whether Congress is going to be able to get together to solve the budget crisis. We do not have a lot of time before December 15, and there is the prospect of yet another shutdown of the Federal Government because Congress has not been able to resolve how to come together on a plan to balance the budget over a specified period of time.

Mr. President, I will make a couple of comments about that impasse because I think indeed it is very serious. I remember looking at the New York Times on Saturday morning. It was a report on the progress that Congress has made on this effort to balance the budget. I will read perhaps a couple of sentences from that article on Saturday by Mr. David Rosenbaum:

The budget negotiations this week between Congress and the White House were a complete bust. For 3 days in a row, lawmakers and administration officials met around a table in a conference room in the Capitol of the United States, closed the doors, accomplished absolutely nothing, and came out and accused each other of refusing to negotiate in good faith. Then, on Thursday afternoon, they adjourned until next week. No one savvy about Washington politics was surprised.

Mr. President, at a time when President Clinton can bring all the heads of the territories in Bosnia to Dayton, OH, and ask them to sit in a room until they reach an agreement ending a war that has been going on for centuries, can we not bring together the parties in this body called Congress to agree on what we should do with the budget?

I mentioned another article, which I think is right on target. It is by our distinguished leader, Senator TOM DASCHLE, the Democratic leader. He

pointed out in this article, which appeared in Roll Call:

People of this country are sick and tired of a Government that does not understand their problems or their neighbors' problems, sick and tired of politicians fighting over things that the rest of the country cannot understand, and, most of all, they are sick and tired of the fact that it seems impossible to get anything done in Washington.

Mr. President, I think that it is time, when we talk about the budget, for the moderates in both parties to come together and help resolve this problem. I am absolutely convinced that you cannot put people in a room who have visions of what the future of this country should be like that are as different as night and day. It is my opinion that the most difficult problems cannot be solved from the left working in, nor from the right working toward the center. I am absolutely convinced that you cannot take the fringes of any political party and try and use that methodology to solve difficult problems, such as a budget problem.

I know that all the folks that are working on the budget are people of good faith and have strong beliefs about what a budget agreement should accomplish and what it should contain. Mr. President, I am suggesting today that there are moderates on the Democratic side—moderates in the Democratic Party, both in the House and in the Senate, that really want to have a budget agreement. I think it is now time for the moderates on both sides of our political parties to try and band together to help resolve this problem. I am very concerned that as the days go by and hours keep ticking off the clock, that we are not making the progress needed and necessary in order to solve this problem before yet another deadline occurs.

As it was said in the Saturday article I quoted, the talks so far between Congress and the White House were a complete bust. Mr. President, we owe to the American people much more than that. We owe the best talent, the best minds, and the best dedicated public servants to work together across party lines to bring this debate to a closure. Let me suggest a couple of things I think moderates can agree to.

First, I think it is certainly possible that we can agree that there should be a balanced budget and it should be in 7 years. Point No. 1.

Second, I think that all of this debate about which economic assumptions we are going to use to help solve this problem almost border on the point of being ridiculous. The Congressional Budget Office has suggested that growth is going to be about 2.3 percent next year. The Office of Management and Budget suggested that growth rate will be about 2.5 percent. Is there not a middle ground between those two numbers, a figure between 2.3 and 2.5 that people with good intentions cannot agree to? I suggest that we split the differences between those, and I think that is something that can be done. I think it can be done in a way that brings about the best economic assumptions that we need in order to fix this problem.

Third, I think people should be able to agree on a Consumer Price Index adjustment. The people who have looked at this issue have recommended that, clearly, the Consumer Price Index on which we base so many of our economic programs is overstating the cost of products that consumers buy and that an adjustment of somewhere up to 1 percent perhaps is a reasonable and rational adjustment.

I suggest that we could take a point, a percent adjustment, and by doing that really allow us a great deal more flexibility in solving this budget impasse.

Fourth, I think we ought to be able to agree on a tax cut that is reasonable and fair. Some have suggested no tax cut at all, zero. Some have suggested we absolutely have to have $245 billion in tax cuts. Is there not, again, a middle ground that we could agree on that comes up with a reasonable tax cut and save somewhere in the range of $100 to $150 billion over the 7-year period? Is that not a fair compromise to those who say we should have none and those who say we should have the higher amount? I suggest it is.

The fifth point I think we should be able to come together on is the fact that the savings we have from these procedures I just outlined should be utilized to put back money in Medicare and Medicaid and the earned income tax credit and the welfare program, environmental programs, and yes, equally if not more important, the education programs which determine the future of the people of this country and use those extra funds to increase some of those drastic, suggested cuts in those programs.

Mr. President, I think reasonable people in both parties who could call ourselves moderate should be able to get together and do these things. I think it is more difficult when you have people who are on the left in their party, or on the right in their party trying to resolve these differences. Is it not better to have a group of people in the middle who are moderates who can agree, and once we get an agreement which I think is pretty easy to get to, work it out so that we then move toward the outside to solve the problem?

The way to solve this problem is working from the center out, not from the left end or from the right end, but, rather, working out the principles. These five principles I outlined I think give us the strong basis for trying to reach a balanced budget in 7 years, one that, hopefully, this President would be able to see meets the needs that he has outlined, solves the problem, and everybody comes away a winner.

I do not see how anybody wins if we have another stalemate. Everybody loses. Yet if we do reach an agreement, everybody should win. And winners or losers in the Congress is not really what it is all about; it is whether we will craft a program that the American people can win with and the future generations can say that Congress did the right thing when they were called upon to meet this challenge.

I strongly suggest that now is the time for moderates in the Republican Party and the Democratic Party to start talking to each other. There is nothing wrong with that. That is what a democratic Government is all about—compromises, meeting together, solving the problems in the center, and then working it away, and these agreements are received by more people in order to reach a majority.

I am just very concerned if we do not do that, if we try and solve this problem from the left working in or from the right working in, we will just have a stalemate. I do not think there is any political capital in bringing this Government to a closure again because we at that time will be admitting once again we cannot make Government work. That is not why we were sent to Congress. Just the opposite is the reason we are here.

I call today upon moderates in both parties to start talking, to meeting, to see if we cannot agree on these five principles I have tried to outline and take it from there and see where it leads us.

I suggest, in conclusion, we might be very surprised that it leads us to a balanced budget agreement that the Congress can pass with great enthusiasm, and this President will find that he will be able to support it as well.

I yield the floor.

TRIBUTE TO SENATOR ALAN SIMPSON

Mr. HEFLIN. Mr. President, I was very saddened to learn of the retirement of Senator ALAN SIMPSON of Wyoming. He and I came here together in the class of 1978 and have served with each other on the Judiciary Committee, tackling some contentious nominations and other high-profile issues. He has emerged as a true leader on many issues including immigration and population issues. He is someone I would term a ''character,'' for he is certainly one of the more colorful and humorous individuals to have ever served in the Senate. His quick wit is legend, and many of us—Democrat and Republican alike—have been victims of it at one time or another over the years, but, much more often the beneficiaries of it. He uses it both ways—to score a point but more often to break an unresolved impasse.

Senator SIMPSON is the son of former Wyoming Governor and Senator Milward Simpson and has been in and around politics all his life. Born in Denver, CO, in 1931, he earned both his bachelor of science and law degrees at the University of Wyoming in Laramie. He served in the U.S. Army from 1954 to 1956 and began his career as a litigator, raising his family in Cody, WY,

and serving as assistant attorney general of Wyoming and in the State legislature. He was elected to the Senate in 1978 and quickly became a rising star in his party. He was seriously considered for the Vice Presidential nomination in 1988 and has led the fight for passage of many major legislative efforts. His service as his party's whip was outstanding, but in matters of conscience, he never lost his independence.

Of course, our friend from Wyoming is best known here and throughout the country for his colorful personality. He is widely known for having one of the best senses of humor in Washington and one of its most acerbic tongues on occasion. He has entertained friends with his keen sense of comic timing, his witty delivery, and a standard portfolio of jokes and anecdotes, many of which could not be printed in the CONGRESSIONAL RECORD or other reputable publications. When he leaves the Senate, he could pursue a number of different careers. He has the talent to be another Johnny Carson. He could successfully pursue many other fields, for he has a brilliant legal mind and has the ability to get to the core of an issue rapidly.

I count him as one of my closest friends. His beautiful, thoughtful, and gracious wife, Ann, is likewise a superb individual and my wife and I will never forget their genuine kindness and concern when Elizabeth Ann suddenly became ill on an overseas trip earlier this year.

It has been my privilege and pleasure to serve with Senator ALAN SIMPSON over the last 17 years, and I look forward to our last year here together. I congratulate him on an outstanding career, and hope that we have not seen the last of him in the public arena. We need his leadership, his passion for the issues, and his humor to help lighten our load.

TRIBUTE TO SENATOR MARK HATFIELD

Mr. HEFLIN. Mr. President, while MARK HATFIELD's retirement announcement did not take me by complete surprise—for such decisions have become virtually a weekly event here in the Congress—I was nonetheless disappointed and saddened to learn that he would not be seeking reelection to the Senate next year. He is one of the senior Members of this body, and has been a national leader of uncommon earnestness, moderation, honesty, and principle. He is known for his lack of excessive partisanship and for always yielding to his conscience on the many difficult matters that come before us. He is thoughtful, deliberative, intellectual, and never fails to do what he believes to be right and in the best interest of his State and country.

The people of Oregon have entrusted Senator HATFIELD with its reins of leadership through State or national office since 1956, when he was elected secretary of state at the age of 34. In 1958, he was elected Governor, serving for 8 years. In 1966, he was elected to the Senate and has been here ever since.

He is a deeply religious man who has been a spiritual leader as well as a public one. His leadership of our Senate Prayer Breakfast group over the years has been nothing short of inspirational. I have also enjoyed working with him on the National Prayer Breakfasts each year, something he had been involved with even at the State level when he was Governor back in Oregon. Our friend from Oregon has led by example; his religious convictions and quiet, friendly manner have been a powerful demonstration of how an ideal public official should conduct himself. He has been one for us to look at and emulate, regardless of our own political views.

As a young serviceman, he was one of the first Americans to see Hiroshima after it was bombed. This experience left its mark, and Senator HATFIELD has been an unfailing leader on issues relating to nuclear deterrence and nonproliferation.

MARK HATFIELD was born in Dallas, OR in 1922, and graduated from Willamette and Stanford Universities. He served in the Navy during World War II, commanding landing craft at Iwo Jima and Okinawa. Early in his career, he was a teacher of political science and has written extensively on public policy issues. Since January, he has chaired the Senate Appropriations Committee, a daunting task in its own right, but particularly challenging this year. He had previously served in that capacity. His graciousness and earnestness have not been diminished by the fierce budget wrangling this year.

Senator HATFIELD and I will be leaving the Senate at the same time, so I will not be serving here once he is gone. But I do know that those Members who do remain after him will find it a much lesser place in his absence. I am proud to call him a friend, I congratulate him on his outstanding career and for the way he has always conducted himself, and wish him and Antoinette all the best for a happy, healthy, and lengthy retirement. I also look forward to serving with him over the next year.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE RETIREMENTS OF ALAN SIMPSON, MARK HATFIELD, AND NANCY KASSEBAUM

Mr. SIMON. Mr. President, three of our colleagues have just recently announced they are not running again for reelection. The most recent is Senator SIMPSON.

I got to know AL SIMPSON when I was a State legislator and he was a State legislator. We were at a meeting that a foundation pulled together of what they, accurately or inaccurately, called the outstanding legislators from various States, and I got to know ALAN SIMPSON there.

I have worked with him over the years. He and I differ on some things, but he is a legislator's legislator. He really legislates. He sits down and works things out. He is a man of reason. He is not frightened by a new idea. I think he has made a tremendous contribution to the Senate, to his State of Wyoming, and to the Nation, and I am very proud to have served with him.

I will add, one of the things that characterizes Senator SIMPSON, Senator HATFIELD, and Senator KASSEBAUM is something the Presiding Officer has heard me talk about before, and that is there is not excessive partisanship. One of the things that has changed in my 21 years, soon to be 22 years here in Congress, is that we have become gradually more partisan. Both parties share the blame on this, and it is not a good thing. It is like the budget process. We issue statements, we have press conferences, we denounce each other instead of sitting around a table, working things out. ALAN SIMPSON, MARK HATFIELD, and NANCY KASSEBAUM were the kind of people who worked things out.

I have, up until the last election, served as chairman of three subcommittees. I do not think we ever had a party-line vote in any of my subcommittees. That meant sometimes I had to give a little more than I wanted. Sometimes others did. But I think the net effect was a good one for the Nation and, strangely, I think, good for the two parties. I think the public senses that we are excessively partisan and there is a negative attitude toward both the Democratic and Republican Parties out there. I hope we can move away from that.

The second person who recently announced that he is retiring is Senator MARK HATFIELD. Most people think about MARK HATFIELD in connection with chairing the Appropriations Committee, or a hundred and one other things that he does. I think of MARK HATFIELD particularly for his leadership in the area of arms control. Long before others raised the flag that maybe we should not be spending so much money on arms, MARK HATFIELD was telling us that.

Even today we spend more on our defense budget than the next eight countries combined. It does not make sense. If we take the 1973 budget on defense and add the inflation factor, we are spending more today than we were in 1973. In 1973 we were involved in Vietnam, we faced the cold war with what was then the Soviet Union and a nuclear threat there. We ought to be paring it down. MARK HATFIELD has been a

voice of reason. Again, like ALAN SIMPSON, he has been one who has been willing to work with people on the other side.

Senator NANCY KASSEBAUM is the same. I read the stories about her, as I did about all of my colleagues and their contributions. One of the contributions NANCY KASSEBAUM has made has been on the Subcommittee on Africa, in the Foreign Relations Committee. She chaired that for a while. NANCY KASSEBAUM did not get any votes back home in Kansas by chairing the Subcommittee on African Affairs, but made an immense contribution in the very same way that ALAN SIMPSON gets no votes in Wyoming by chairing the Subcommittee on Immigration.

One of the things that we have in this body are people of real ability who have a sense of public service. And we need more of that, and a little less, as I indicated, partisanship and power grabbing. But Senator KASSEBAUM is primarily thought of by her work on the Labor and Human Resources Committee in which the Presiding Officer serves. And she has done a superb job there over the years, part of it in these years as chairman where she has had to make some very difficult decisions as we passed a budget resolution that cuts back on some of the things that she favors. But the contributions that she has made over the years have been very significant.

I have been proud to serve with all three. The people of Wyoming, Oregon, and Kansas can be very proud of these three Senators—Senator SIMPSON, Senator HATFIELD, and Senator KASSEBAUM.

Mr. President, I do not see anyone seeking the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. 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. INHOFE. Are we in morning business, Mr. President?

The PRESIDING OFFICER. Yes, we are.

SENDING UNITED STATES TROOPS TO BOSNIA

Mr. INHOFE. Mr. President, I, like many people, have been distressed over the weekend listening to a lot of the comments as to what is going on in Bosnia, and this seems to be—and it is portrayed by this administration that it is—a done deal. Many Republicans and many Democrats are also saying that it is a done deal; that the troops are going to go; the President has made up his mind. The President, back in February 1993, made a commitment of 25,000 American troops on the ground in Bosnia, and he has decided they are going to go. So I guess the easy thing is to say, well, the President made the decision; I may not agree with it or I may agree with it but nonetheless the decision is made, and we want to support our troops that are over there.

I am really getting tired of the demagoging that is going on about supporting the troops that are over there, as if this thing is a done deal. I grant you, Mr. President, I agree that the President of the United States does have the constitutional right to deploy troops. I think it is wrong, and historically it has not been done. The Presidents have come to the American people and have come through Congress for resolutions of approval, and this President has chosen not to do this.

Of course, I will remind all America that the House of Representatives, the other body, has already on two occasions expressed itself in a very, very strong vote in opposition to the deployment of ground troops to Bosnia. So we turn on the talk radio shows and we look at the news accounts, and they say, well, it is already a done deal and Congress has no role; Congress is not relevant in this debate.

I just do not buy that. I think this is still America, and the American people can be heard, and the best way for the American people to be heard is through their elected representatives. I think we have just a few hours to stop this thing. I am talking now about the mass deployment.

Yes, the President has already sent several hundred troops into the area of Tuzla, which is the northeastern sector, in which I had occasion to spend quite a bit of time, and I see an environment which is the most hostile environment that perhaps we have ever had the occasion to deploy any American troop into in the history of this country. We talk about and can identify that there are more than 6 million mines of all shapes and sizes that are out there, and you cannot do anything about rendering those mines harmless because the ground is now frozen and they will not appear really until a heavy vehicle gets on top of them. Of course, we are talking about the deployment of 130 M1 tanks and several other armored vehicles, so it is a very frightening thing. It is a frightening thing to think it is not just a matter of three factions that do not like each other in the former Yugoslavia. It is not just the Serbs and the Croats and the Moslems, because in addition to that you have the Bosnian Serbs, you have the Bosnian Moslems, you have the Arkan Tigers, you have the Black Swans, you have the Afghanistans, you have the Iranians. You have all of these, what we call rogue factions over there. And yet they say it is a done deal.

I think it is too easy to say that. I hope that everyone in America will demand that their Senator get on record on this issue. Mr. President, we are going to give them the opportunity to get on record on this issue. Last week, I served notice that there is going to be an up-or-down vote on the sending of troops into Bosnia.

It is not a matter of supporting our troops that are there. You bet we support them. I know something about being a troop. I used to be in a troop, and I wanted the support of the American people and got it. I think every Member of this Senate, every Member of the other body, is going to support our troops wherever they are.

That is not the issue. That is a copout. The issue is, should they be over there to begin with? I can remember so well when Michael Rose, who was the commanding general of the troops, the U.N. troops, in Bosnia said, if America sends troops over there, they will have more casualties than they had in the Persian Gulf. That was 390.

In the Senate Armed Services Committee, when I asked Secretary Perry and Secretary Christopher and General Shalikashvili—I said, ''Is that mission to contain a civil war and to protect the integrity of NATO worth more than 400 American lives?'' And Secretary Perry said yes; Secretary Christopher said yes; General Shalikashvili said yes. But I say no, because, you see, Mr. President, they were speaking on behalf of the President of the United States, the top people, the Secretary of Defense, the Secretary of State, and, of course, the Chairman of the Joint Chiefs of Staff.

So now we say it is a done deal and that Congress is not relevant. But I say we are going to have a vote on this, and people are going to have to be responsible for it.

I ask unanimous consent, Mr. President, that at this point an editorial be printed in the RECORD, a December 1 editorial by Abraham Sofaer.

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

CLINTON NEEDS CONGRESS ON BOSNIA

(By Abraham D. Sofaer)

President Clinton has appealed to Congress and the American people to support his policy committing 20,000 ground troops to implement the peace agreement reached between Serbia, Croatia and Bosnia. It is a tribute to the American people that the president is accorded the greatest deference when he calls for the greatest sacrifice. Americans respond, at least initially, to such appeals from their President.

But Mr. Clinton is exploiting this quality. He has presented the agreement and the American role in its enforcement as an accomplished fact, though the documents have yet to be signed by the parties, and numerous preconditions to U.S. involvement have yet to be fulfilled. He is consulting with Congress, but he is already sending troops to the area without any form of legislative approval. Indeed, he claims that, while he would welcome Congress's approval, he plans to go ahead regardless.

Presidents often try to get what they want by leading aggressively. Congress nevertheless has a duty to study carefully the proposed operation and then express its view. The essential first step in that debate is to read the documents signed recently in Dayton. The complex agreement, with 12 annexes, calls for Bosnia to remain a single but divided nation, and all the warring factions

to withdraw to specific lines. The agreement covers virtually all aspects of future life in Bosnia, including the division of its governments, the contents of its constitution, the selection of its judges, and the manner in which its police force is to be chosen and trained. Of principal interest to Congress, though, are those aspects of the agreement that create obligations and expectations for the U.S. to fulfill.

OUR OBLIGATIONS

These obligations, when carefully examined in context, carry to the ultimate extreme the policy of forcing a settlement on the Bosnians, rather than attempting to create an internal situation that is militarily balanced. Most significantly, the agreement makes the U.S., through the ''implementation force'' (IFOR), the military guarantor of the overall arrangement.

The role of U.S. troops cannot be characterized as ''peacekeeping.'' Even ''implementation'' understates our obligation, IFOR will be close to an occupying army, in a conflict that has merely been suspended. We are likely to have as many difficulties acting as occupiers without having won a victory as the U.N.'s war crimes tribunal is having in attempting to apply its decisions in Bosnia without the power to enforce them.

IFOR's principal responsibilities are set out in Annex 1(a) of the agreement:

The parties agree to cease hostilities and to withdraw all forces to agreed lines in three phases. Detailed rules have been agreed upon, including special provisions regarding Sarajevo and Gorazde. But IFOR is responsible for marking the cease-fire lines and the ''inter-entity boundary line and its zone of separation,'' which in effect will divide the Bosnian Muslims and Croats from the Bosnian Serbs. The parties agree that IFOR may use all necessary force to ensure their compliance with these disengagement rules.

The parties agree to ''strictly avoid committing any reprisals, counterattacks, or any unilateral actions in response to violations of this annex by another party.'' The only response allowed to alleged violations is through the procedures provided in Article VIII of the Annex, which establishes a ''joint military commission''—made up of all the parties—to consider military complaints, questions and problems. But the commission is only ''a consultative body for the IFOR commander,'' an American general who is explicitly deemed ''the final authority in theater regarding interpretation of this agreement. . . .'' This enormous power—to prevent even acts of self defense—will carry proportionate responsibility for harm that any party may attribute to IFOR's lack of responsiveness or fairness.

IFOR is also given the responsibility to support various nonmilitary tasks, including creating conditions for free and fair elections; assisting humanitarian organizations; observing and preventing ''interference with the movement of civilian populations, refugees, and displaced persons''; clearing the roads of mines; controlling all airspace (even for civilian air travel); and ensuring access to all areas unimpeded by checkpoints, roadblocks or other obstacles. Taken together, these duties essentially give IFOR control of the physical infrastructure of both parts of the Bosnian state. It seems doubtful that the 60,000-man force could meet these expectations.

Article IX of the agreement recognizes the ''obligation of all parties to cooperate in the investigation and prosecution of war crimes and other violations of international humanitarian law.'' This is an especially sensitive matter. Yet there is no mechanism in the accord for bringing to justice men who haven't been defeated in battle and who aren't in custody. This means that IFOR is almost certain to come under pressure by victims and human rights advocates to capture and deliver up the principal villains. Will it do better than we did in fulfilling our promise to capture Mohammed Farah Aidid in Somalia?

The agreement makes vague promises about reversing ''ethnic cleansing'' by guaranteeing refugees the right to return to their homes. Since this is in practice impossible, the West will end up paying billions in compensation awards promised in the agreement.

The agreement contains numerous provisions regarding the manner in which Bosnia is to be governed, with checks and balances built in that are based on ethnic or geographic terms. But Americans traditionally have not believed in such divisions of political authority. We fought the Civil War to put into place an undivided nation based on the principle that all people are of equal worth, and all must live in accordance with the law. It took a Tito to keep the ethnically divided Yugoslavia together. Will IFOR now assume his role of enforcing a constitution based on principles abhorrent to Western values? Even if the basic structure of the government works, what role will IFOR have to play in resolving disputes over the numerous sensitive areas that the parties have seen fit to write into the accords? If the parties don't resolve some matters successfully, they are likely to blame IFOR for these failures.

Finally, the agreement draws a vague distinction between ''military'' and ''civilian'' matters. Ultimate authority over the latter is allocated to a U.N. high representative, who is to act through a ''joint civilian commission'' consisting of senior political representatives of the parties and the IFOR commander or his representative. The high representative is to exchange information and maintain liaison on a regular basis with IFOR, and shall attend or be represented at meetings of the joint military commission and offer advice ''particularly on matters of a political-military nature.'' But it is also made clear that the high representative ''shall have no authority over the IFOR and shall not in any way interfere in the conduct of military operations or the IFOR chain of command.''

This may seem a reassuring confirmation of IFOR's power to avoid U.N. restrictions on the use of force. Ultimately, however, IFOR's role could be made untenable if it finds itself in a confrontation with the U.N.'s designated representative about the proper handling of a ''political'' matter. What would happen, for example, if the U.N. high representative determined that U.S. forces had gone too far in defending themselves under President Clinton's policy of effectively responding to attacks ''and then some''?

EITHER/OR

Congress cannot redo the agreement reached by the parties. But there is no need for lawmakers to accept President Clinton's either/or approach—either support his plan to implement the agreement, or pull out entirely. If the agreement represents a genuine desire for peace among the warring parties, then presumably the accord is not so fragile as to depend on the oral commitment of U.S. troops made by the administration (and which isn't even part of the agreement). Congress can and should consider other options. The U.S., for example, could assist European forces in demarcating the boundary lines, and could enforce peace in the area through the threat of air strikes on important targets. Or the U.S. could offer greater monetary and diplomatic support for the agreement but not any ground troops.

Whatever happens with the troop commitment, Congress should insist that the agreement's provisions allowing the training and arming of the Bosnian Muslims be rigorously adhered to. A balance of power among the hostile parties is ultimately the only basis for long-term stability in the region. And if American troops are sent to Bosnia, they will be unable to leave responsibly until such a balance has been developed. That would certainly take longer than the yearlong limit imposed by the administration.

Mr. INHOFE. This is a senior fellow at the Hoover Institution who took the time to read the some 12 annexes that we have to this agreement that has been initialed and all that was said.

We realize the responsibility that we have in the United States for this so-called peacekeeping effort. But stop and think. This is not peacekeeping; this is peace implementation. There is a little thing called mission creep. We saw it in Vietnam. We saw it in Somalia. It is a thing where you go in and tell the American people, ''We are just keeping peace. There is no war on over there.''

Mr. President, I was in the northeast sector of Bosnia. There is a war going on over there. The firing did not stop. The firepower is going on right now. You can hear it. You are walking around with a shrapnel jacket and helmet. You are not doing that to keep warm even though you are doing anything you can to keep warm in that area. There was a blizzard 3 weeks ago when I was there.

Nonetheless, when this scholar read the accords, not only are we responsible for implementing, that is, making peace; but we also are responsible for rebuilding the infrastructure. This $2 billion they bandy around is not even a drop in the bucket of what we are going to have to spend if the President has his way and has a mass deployment into Bosnia.

I had a telephone conversation not more than just 10 minutes ago with a retired captain, Jim Smith, who lost his leg in Vietnam and lost his son in Somalia. His son was one of those soldiers, one of those 18 Rangers that were sent over there originally for some type of a humanitarian mission that was supposed to open up the roads so we could send humanitarian goods in to some of the Somalian people.

Yes, that seemed to be a good idea. It was a 45-day mission to start with. Then President Clinton was elected. I was serving in the other body at the time, and every month we sent a resolution that said, ''Mr. President, bring our troops home from Somalia. We do not have anything at stake there in terms of our Nation's security.'' He did not do it and did not do it and did not do it until finally 18 of our Rangers were murdered in cold blood, their corpses were mutilated and dragged through the streets of Mogadishu. And one of those corpses was Cpl. Jim Smith, the son of Capt. Jim Smith.

I talked to Capt. Jim Smith, who spent a career in the military and knows a lot more about it than I do. Captain Smith said there are so many parallels between what happened to his -

son and what is going to happen to many other sons and daughters if we allow the mass deployment of troops into Bosnia.

He said one of the things that stuck in his mind was the last letter that he got from his son, Cpl. Jim Smith, who said, ''Dad, the biggest problem we have is we don't know who the good guys and the bad guys are.'' This was in Somalia. This was one of the last letters, maybe the last letter, written by Cpl. Jim Smith before his body was dragged through the streets of Mogadishu. He said, ''We don't know who the good guys and the bad guys are.''

That is exactly what happened 2½ years ago when President Clinton made the first decision for airdrops. I asked the person—and I cannot use his name in this public forum because it was a restricted meeting—I said, ''How do you know when we drop the stuff whether it's going to get to the good guys or the bad guys?'' He scratched his head and said, ''You know, I don't think we know that. Come to think of it, I'm not sure we know who the good guys and the bad guys are.''

That is because if you take a snapshot of any time in the history of Bosnia or the former Yugoslavia, you will find that at one time the Croats are the bad guys and the Serbs are the good guys; another time the Moslems have just finished butchering several thousand people, they are the bad guys, the Croats are the good guys. Most recently we assume the Serbs are the bad guys, so we, under the direction of President Clinton, chose sides in that civil war. At that time, many of us said, as soon as they do airdrops, then there will be airstrikes, and then they will want to send troops in. And that is exactly what has happened.

So this not over. It is not a done deal. I know the President right now is on a wave. His numbers look good. Mr. President, I can understand that, because you are an excellent politician. You just came back from Europe. You were talking about how everyone was cheering you over there. No wonder they are cheering over in Europe. You are saying we are committing 70 percent of the cost for this, and we are committing 30 percent of our troops to fight with your other troops, to fight your battles for you.

That is not our battle over there. That is relative to the security interests of Western Europe and Eastern Europe, not the United States.

I saw the accounts on television when President Clinton was talking to the troops over there. I can remember when I was a troop, so I know how a troop thinks. When I was over there talking to those same troops just a few days before the President was there, they had one question. They said, ''What is our mission? Why are we going to this hostile area? Why is the President obsessed in sending us into Bosnia?''

I only say this today. I know we are out of time, Mr. President. I just want to say that I do not see how we allow the mass deployment of troops into Bosnia. I emphasize there will be no free rides. There is going to be a vote. Most likely it will be Wednesday, not the vote that the leader has that is going to be a watered-down version of conciliatory remarks about what has gone on over there and about protecting our troops. We all know we are going to support our troops.

But this is going to be a vote on, Are we going to have a mass deployment of troops into Bosnia? Yes or no. And every Senator on this floor is going to have to make a record and stand up and say how he feels so that the people at home will know.

I do not know, Mr. President, how your calls are coming in in your office back in Tennessee. But I can tell you what mine are in Oklahoma. They are about 100 to 1 against it. That is because there is an infinite wisdom of the people of this country once left alone to make up their mind and make that judgment. It is not a beltway decision. It is not a Washington, DC, decision. It is not the kind of wisdom you get in the White House or within the beltway. It is back in real America where real people, real fathers and mothers are, sons and daughters who are going to be over there, shipped over to this endless war in Bosnia.

It is not going to be 12 months, Mr. President. When we were up in the area of Tuzla where our troops are going to be deployed, I said something about 12 months, and they all laughed. They said, ''You mean 12 years.'' This is the time for it to be stopped. If Somalia had been stopped before the murder of the 18 Rangers over there and their mutilated bodies were dragged through the streets of Mogadishu, that would not have happened. This is the time to stop this before the mutilated bodies of Americans are dragged through the streets of Tuzla.

I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

BOSNIA AND HAITI

Mr. DEWINE. Mr. President, we are now debating in this country the question of deployment of United States troops to Bosnia. As we engage in that discussion this week, I think it would be appropriate if we take a moment to go back and talk about the last major U.S. deployment of troops in a trouble spot situation. Of course, I am talking about Haiti.

Today, Mr. President, there are approximately 2,500 United States troops in Haiti, down from a much higher figure previously. These troops, Mr. President, were deployed in the interest of the future of peace and democracy in Haiti. It is vitally important to Haitian democracy that there be an orderly transfer of power in Haiti in the coming weeks.

On December 17 of this year—in just a few days—elections are scheduled to take place. These elections on December 17 are to be followed, on February 7, by the swearing in of a new President of Haiti. Mr. President, all over the world the orderly transition of power is considered the true hallmark of democracy.

This orderly, routine transfer of power is what separates true democracy from pseudodemocracy. It is what separates the democratic countries in the world from other countries. And there is no truer test of a democracy than its ability routinely to carry out this awesome transfer of power.

Mr. President, in the past, President Aristide has indicated that he understands this and that he understands the importance of this. In fact, on May 29 of this year, Senator SPECTER and I met with President Aristide at the White House in Haiti. We asked him at that time in a fairly lengthy conversation if he can envision any circumstances under which he would retain power. His answer was an unequivocal no. Senator SPECTER asked him again, could he envision any circumstances that he would retain power, stay in office. His answer, no.

Then I asked President Aristide, ''Mr. President, many of your supporters may urge you to stay on, they may appeal to your patriotism, they may tell you that you are the only one who can carry out the duties of the Presidency, that your country needs you. How will you be able to resist those comments? How will you be able to resist those pleas?''

President Aristide's answer was very simple. He said, ''Senator, I have no choice. The Constitution takes precedence over the wishes of my supporters.''

Over the last couple of weeks, there has been some confusion about whether President Aristide will leave office. There has been some indication that he might not step down as scheduled. His views on this matter appear to be a moving target. The most recent accounts over the weekend, last Friday specifically, are that he said that he will step down after all and that he was really misunderstood in the comments that he made a few days prior to that.

Mr. President, it is vitally important that President Aristide does, in fact, step down, that he follows his Constitution, the Constitution of Haiti.

I cannot emphasize enough the vital importance of President Aristide's routine departure from office. Last year, the United States went to the brink of a full-scale invasion in support of constitutional democracy in Haiti. We want and the Haitian people want a strong and stable democracy in Haiti. To achieve that, there has to be an orderly transfer of power. The Haitian people deserve it.

Earlier in this century, William Faulkner described Haiti as ''homeless and desperate on the lonely ocean, a little lost island'' that had suffered ''200 years of oppression and exploitation.''

Faulkner's words could have just as well have been uttered last year, with the addition of several decades. The people of Haiti deserve hope. They need to know that the world shares their aspiration to be a full member of the community of nations. They have waited a long time. They have waited long enough.

I believe it is important that all of us—this country, other countries of the world—put President Aristide on notice that to flirt with the idea of clinging to power in violation of his country's Constitution would be to risk a huge step backward for the Haitian people. It is long past time to break the cycle of oppression in Haiti. The routine, orderly departure from office of President Aristide will be a major step in that direction.

Mr. President, I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO REV. RICHARD C. HALVERSON

Mrs. FEINSTEIN. Mr. President, today I rise to recognize and pay tribute to a great friend to the Senate. The former Chaplain of the Senate, Rev. Richard C. Halverson passed away last week. For 14 years he tended to the spiritual needs of this body and all the people who make it work.

Educated at Wheaton College and Princeton Theological Seminary, Reverend Halverson worked in several places including California, his last place of ministry prior to moving to Washington. As the 60th Chaplain of the Senate most of our Nation knew Reverend Halverson from the prayer he delivered every morning. His respectful and quiet manner was a example to us all for how to conduct ourselves and treat others with dignity. I remember with fondness the mornings when I sat as the acting President of this chamber, and listened to Reverend Halverson speak, urge and console not only the Members of this body but everybody listening throughout the Nation.

Besides his duties as Chaplain of the Senate Reverend Halverson also was a minister to the Fourth Presbyterian Church in Bethesda, MD, and an author of several books. He took a lifetime interest in trying speak to the improvement of the moral being of individuals, and the moral health of our Nation. I will miss Reverend Halverson, our country will miss Reverend Halverson, and this body will miss Reverend Halverson, but we are all better because of his life. I hope the example of his life will continue to set a standard for us all.

I know that Reverend Halverson's wife Doris and all the members of his family know better than all of us what an exceptional and spiritual man he was. I want to express my sympathy to them with this loss.

TRIBUTE TO THE REVEREND DR. RICHARD C. HALVERSON

Mr. SPECTER. Mr. President, I have sought recognition to honor the memory of our long-time Senate Chaplain and spiritual leader, Dr. Richard Halverson, who passed away November 28. Dr. Halverson served as Chaplain for 14 years, joining the Senate in 1981 shortly after I, too, entered the Senate. He retired this past March after distinguished service to this body and to the Nation.

As Senate Chaplain, Dr. Halverson played many roles. His prayers would open each daily session of the Senate, often reminding Senators of the higher objectives of our work. When passions ran high over controversial legislation, Dr. Halverson's opening prayers would give Senators pause for reflection and helped maintain the Senate's tradition of reasoned, respectful debate.

I came to know Dr. Halverson well through his attendance at our Bible study sessions, where he came to learn and share his thoughts on the Old Testament. He was a gracious, valued participant and we benefited from his spiritual insight.

As many know, Dr. Halverson established himself as a Chaplain who never tired of selfless service. He was always available to spend time with someone who needed his time, either for spiritual guidance or counsel. His energies were not just directed at Senators, but at their spouses and staffs, and hundreds of Senate employees. In this role, he played a vital role in keeping the fabric of the U.S. Senate together.

The Senate was a better place for having had the compassionate service of Dr. Halverson as its Chaplain for 14 years, and the Nation owes him its gratitude for the role he played in our midst.

My wife, Joan, and I extend our heartfelt condolences to Dr. Halverson's wife, Doris, and his many children and grandchildren. We will all miss his faithful, caring presence.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business Friday, December 1, the Federal debt stood at $4,989,268,168,883.55. We are still about $11 billion away from the $5 trillion mark. Unfortunately, we anticipate hitting this mark sometime later this year or early next year.

On a per capita basis, every man, woman, and child in America owes $18,939.35 as his or her share of that debt.

CHARITABLE GIFT ANNUITY LEGISLATION

Mr. DOLE. Mr. President, I am pleased that the Senate passed two important bills impacting the charitable community—H.R. 2525 and H.R. 2519. Enactment of these bills was urgently needed to put a stop to unwarranted litigation and ensure that charities can continue to accept gift annuities from generous donors across the country. For these reasons it was important for me to clear the way to immediate passage of the bills.

Charities are critical to the Nation and to communities across the country. And charitable gift annuities are an important method for them to raise much-needed funds. This legislation will allow universities, hospitals, and other important local and national charities to continue their significant contributions to communities and the needy.

I commend my colleagues in the House and Senate for working quickly to craft this legislation. Almost 2,000 charities across the country have been defendants in unnecessary and unwarranted litigation. This congressional act will end the litigation, freeing charities to continue their important work.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Before the Senator starts, the Chair will announce morning business is closed.

PARTIAL-BIRTH ABORTION BAN ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to 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 proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Utah is now recognized.

Mr. HATCH. Mr. President, I rise today to speak in support of H.R. 1833, the Partial-Birth Abortion Ban Act of 1995.

I understand that many people on both sides of this issue have very strongly held beliefs. I respect those whose views differ from my own. And, I condemn the use of violence or any other illegal method to express any point of view on this issue.

This bill, however, presents a very narrow issue: whether one rogue abortion procedure that has probably been performed only by a handful of abortion doctors in this country, that is never medically necessary, that is not the safest medical procedure available under any circumstances, and that is morally reprehensible, should be banned.

This bill does not address whether all abortions after a certain week of pregnancy should be banned, or whether late-term abortions should only be permitted in certain circumstances. It bans one particular abortion procedure.

I chaired the Judiciary Committee hearing on this bill that was held on November 17. After hearing the testimony presented there, as well as seeing some of the submitted material, I must say that I find it difficult to comprehend how any reasonable person could examine the evidence and continue to defend the partial-birth abortion procedure.

That procedure involves the partial delivery, in the late second or third trimester of pregnancy, of an intact fetus into the birth canal. The fetus is delivered from its feet through its shoulders, so that only its head remains in the uterus. Then, either scissors or another instrument is used to poke a hole in the base of the skull. This is a living baby at this point, in a late trimester of living. Once they poke that hole in the base of the skull, at that point, a suction catheter is inserted to suck out the brains. This bill would simply ban that procedure.

The bill was first brought up on the Senate floor in early November. On November 8, the Senate voted to commit the bill to the Judiciary Committee for a hearing and a report of the bill within 19 days, which included a holiday recess.

We held a comprehensive, 6½-hour hearing on the bill on November 17. To facilitate consideration on the floor, I have directed that a hearing record be printed on an expedited basis.

In addition, so that all Senators can have immediate access to the testimony and other evidence adduced at the hearing, last week I had the committee distribute to each Senator a photocopied set of the entire hearing record, including inserts and written submissions.

The committee heard testimony from a total of 12 witnesses presenting a variety of perspectives on the bill. I wanted to ensure that both sides of this debate had a full opportunity to present their arguments on this issue, and I think that the hearing bore that out.

Brenda Shafer, a registered nurse who worked in Dr. Martin Haskell's Ohio abortion clinic for 3 days as a temporary nurse in September 1993, testified as to her personal experience in observing Dr. Haskell perform the procedure that would be banned by this bill. Dr. Haskell is one of only two—maybe four doctors who have acknowledged performing the procedure—only two have acknowledged it, but there may be four of them who do this procedure.

The committee also heard testimony from four ob-gyn doctors—two in favor of the bill and two against, from an anesthesiologist, from an ethicist, and from three women who had personal experiences either with having a late-term abortion or with declining to have a late-term abortion. Finally, the committee also heard from two law professors who discussed constitutional and other legal issues raised by the bill.

The hearing was significant in that it permitted the issues raised by this bill to be fully aired. I think that the most important contribution of the hearing to this debate is that the hearing record puts to rest a number of inaccurate statements that have been made by opponents of the bill and that have unfortunately been widely covered in the press.

Because the Judiciary Committee hearing brought out many of the facts on this issue, I would like to go through the most important of those for my colleagues to clear up what I think have been some of the major misrepresentations—and simply points of confusion—on this bill.

MISREPRESENTATION NO. 1

The first and foremost inaccuracy that we must correct once and for all concerns the effects of anesthesia on the fetus of a pregnant woman. I must say that I am personally shocked at the irresponsibility that led some opponents of this bill to spread the myth that anesthesia given to the mother during a partial-birth abortion is what kills the fetus.

Opponents of this measure presumably wanted to make this procedure appear less barbaric and make it more palatable. In doing so, however, they have not only misrepresented the procedure—which is bad enough—but they have spread potentially life-threatening misinformation that could prove catastrophic to women's health.

By claiming that anesthesia kills the fetus, opponents have spread misinformation that could deter pregnant women who might desperately need surgery from undergoing surgery for fear that the anesthesia could kill or brain-damage their unborn children.

Let me illustrate how widespread this misinformation has become:

In a June 23, 1995, submission to the House Judiciary Constitution Subcommittee, the late Dr. James McMahon, the other of the two doctors who has admitted performing the procedure, wrote that anesthesia given to the mother during the procedure caused fetal demise.

Syndicated columnist Ellen Goodman wrote that, when statements of supporters of the bill are reviewed, ''You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal.''

Let me note also that, of course, if the fetus was dead before being brought down the birth canal, then this bill by definition would not cover the procedure performed to abort that fetus. The bill covers only procedures in which a living fetus is partially delivered.

All but the head of this living fetus is outside, and then they puncture the back of the skull and suck out the brain so that the skull collapses and the baby can then be pulled out. There is no doubt in my mind that the reason the head is in is so that they will not be accused of infanticide.

An editorial in USA Today on November 3, 1995, also stated, ''The fetus dies from an overdose of anesthesia given to its mother.''

In a self-described fact sheet circulated to Members of the House, Dr. Mary Campbell—the medical director of Planned Parenthood who testified at the Judiciary Committee hearing—wrote:

> The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb.

When that statement was referenced to the medical panel at the Judiciary Committee hearing by Senator ABRAHAM, the president of the American Society of Anesthesiologists, Dr. Norig Ellison, flatly responded, ''There is absolutely no basis in scientific fact for that statement.''

The American Society of Anesthesiologists was invited to testify at our hearing precisely to clear up this obvious misrepresentation. They sought the opportunity to set the record straight.

What was terribly disturbing about this distortion was that it could endanger women's health and women's lives. The American Society of Anesthesiologists has made clear that they do not take a position on this legislation, but that they came forward out of concern for this harmful misinformation.

The spreading of this misinformation strikes me as a very sad commentary on the lengths that those who support abortion on demand, for any reason, at virtually any time during pregnancy, and apparently regardless of the method, will do to defend each and any procedure, and certainly this procedure. The sacrifice of intellectual honesty is very disheartening.

As Dr. Ellison testified, he was

> Deeply concerned . . . that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary and perhaps lifesaving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus.

He stated that the American Society of Anesthesiologists, while not taking a position on the bill,

> . . . have nonetheless felt it our responsibility as physicians specializing in the provision of anesthesia care to seek every available forum in which to contradict Dr. McMahon's testimony. Only in that way, we believe, can we provide assurance to pregnant women that they can undergo necessary surgical procedures safely, both for mother and unborn child.

Dr. Ellison also noted that, in his medical judgment, in order to achieve neurological demise of the fetus in a partial-birth abortion procedure, it would be necessary to anesthetize the mother to such a degree as to place her own health in jeopardy.

In short, in a partial-birth abortion, the anesthesia does not kill the fetus. The baby will generally be alive after

partly being delivered into the birth canal and before having his or her skull opened and brain sucked out.

That is also consistent with evidence provided by Dr. Haskell describing his use of the procedure. In his 1992 paper presented before the National Abortion Federation, which is part of the hearing record, Dr. Haskell described the procedure as first involving the forceps-assisted delivery into the birth canal of an intact fetus from the feet up to the shoulders, with the head remaining in the uterus. He does not describe taking any action to kill the fetus up until that point.

In a 1993 interview with the American Medical News, Dr. Haskell acknowledged that roughly two-thirds of the fetuses he aborts using the partial-birth abortion procedure are alive at the point at which he kills them by inserting a scissors in the back of the head and suctioning out the brain.

Finally, in a letter to me dated November 9, 1995, Dr. Watson Bowes of the University of North Carolina Medical School wrote,

> Although I have never witnessed this procedure, it seems likely from the description of the procedure by Dr. Haskell that many if not all of the fetuses are alive until the scissors and the suction catheter are used to remove brain tissue.

Simply put, anesthesia given to a mother does not kill the baby she is carrying.

MISREPRESENTATION NO. 2

Let me move on to the next misrepresentation. Another myth that the hearing record debunks is that the procedure can be medically necessary in late-term pregnancies where the health of the mother is in danger or where the fetus has severe abnormalities.

Now, there were two witnesses at the hearing who testified as to their experiences with late-abortions in circumstances in which Dr. McMahon performed the procedure. Both women, Coreen Costello and Viki Wilson, received terrible news late in their pregnancies that the children they were carrying were severely deformed and would be unable to survive for very long.

I would like to make it absolutely clear that nothing in the bill before us would prevent women in Ms. Costello's and Ms. Wilson's situations from choosing to abort their children. That question is not before us, and it is not one that we face in considering this narrow bill.

I also would like to point out that I have the utmost sympathy for women—and their husbands and families—who find themselves receiving the same tragic news that those women received.

Regardless of whether they aborted the child or decided to go through with the pregnancy, which is what another courageous witness at our hearing, Jeannie French of Oak Park, IL, chose to do—and as a result, her daughter Mary's heart valves were donated to other infants—their experiences are horrendous ones that no one should have to go through.

The testimony of all three witnesses was among the most heart-wrenching and painful testimony I have ever heard before the committee. My heart goes out to those three women and their families as well as any others in similar situations.

However, the fact is that medical testimony in the record indicates that even if an abortion were to be performed under such circumstances, a number of other procedures could be performed, such as the far more common classical D&E procedure or an induction procedure.

When asked whether the exact procedure Dr. McMahon used would ever be medically necessary—even in cases like those described by Ms. Costello and Ms. Wilson, several doctors at our hearing explained that it would not. Dr. Nancy Romer, a practicing Ob-Gyn and clinical professor in Dayton, Ohio, stated that she had never had to resort to that procedure and that none of the physicians that she worked with had ever had to use it.

Dr. Pamela Smith, the director of medical education in the department of obstetrics and gynecology at the Mount Sinai Medical Hospital Center in Chicago, stated that a doctor would never need to resort to the partial-birth abortion procedure.

MISREPRESENTATION NO. 3

This ties in closely to what I consider the next misrepresentation made about the partial-birth abortion procedure: the claim that in some circumstances a partial-birth abortion will be the safest option available for a late-term abortion. Testimony and other evidence adduced at the Judiciary Committee hearing amply demonstrate that this is not the case.

An article published in the November 20, 1995, issue of the American Medical News quoted Dr. Warren Hern as stating, ''I would dispute any statement that this is the safest procedure to use.'' Dr. Hern is the author of ''Abortion Practice,'' the Nation's most widely used textbook on abortion standards and procedures. He also stated in that interview that he ''has very strong reservations'' about the partial-birth abortion procedure banned by this bill.

Indeed, referring to the procedure, he stated, ''You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it.''

In fairness to Dr. Hern, I note that he does not support this bill in part because he feels this is the beginning of legislative efforts to chip away at abortion rights. We have included a statement from him in the RECORD. His opinion on the procedure, however, is highly instructive.

I think Dr. Nancy Romer, a professor in the department of obstetrics and gynecology at the Wright State University School of Medicine and the vice chair of the department of obstetrics and gynecology at Miami Valley Hospital, both in Dayton, OH, explained it best. I will quote her entire statement on this point:

> If this procedure were absolutely necessary, then I would ask you, why does no one that I work with do it? We have two high-risk obstetricians, and a medical department of about 40 obstetricians, and nobody does it. We care for and do second-trimester abortions, and we have peer review. We are watching each other, and if we truly were doing alternative procedures that were killing women left and right, we would be out there looking for something better. We would be going to Dr. Haskell and saying, please, come help us do this. And we are not. We are satisfied with what we do. We are watching each other and we know that the care that we provide is adequate and safe.

I think that says it all as far as safety is concerned.

MISREPRESENTATION NO. 4

Another misrepresentation that should be set straight concerns claims that the partial-birth abortion procedure that would be banned by this bill is in fact performed only in late-term pregnancies where the life of the mother is at risk or where the fetus is suffering from severe abnormalities that are incompatible with life.

I certainly do not dispute that in a number of cases the partial-birth abortion procedure has been performed where the life of the mother was at risk or where the fetus was severely deformed.

Substantial available evidence indicates, however, that the procedure is not performed solely or primarily where the mother's life is in danger, where the mother's health is gravely at risk, or where the fetus is seriously malformed in a manner incompatible with life.

The fact of the matter is—and I know this is something that opponents of the bill have not faced—this procedure is being performed where there are only minor problems with the fetus, and for purely elective reasons.

Dr. Haskell stated in testimony given under oath last month, on November 8, 1995, in Federal district court in Ohio, that he performs the procedure on second trimester patients for some medical and some not so medical reasons. [See Dist. Ct. Tr. at 104.] That court transcript is part of the hearing record.

In transcripts from Dr. Haskell's 1993 interview with the American Medical News—also part of the hearing record—Dr. Haskell states ''most of my abortions are elective in the 20–24 week range. In my particular case, probably 20 percent are for genetic reasons [and] the other 80 percent are purely elective.'' Meaning that 80 percent of those kids that are destroyed are normal kids.

Dr. Romer testified that she has cared for patients who had received a partial-birth abortion from Dr. Haskell for reasons that were purely based on the woman not wanting a baby, for—as she put it—social reasons.

Most important, however, medical testimony at our hearing indicated that a health exception in this bill is

not necessary because other abortion procedures are in fact safer and better for women's health.

As for examples of overly broad health rationales for this procedure, Dr. McMahon indicated—in a 1995 letter submitted to Congress and in a 1993 interview with the American Medical News—that, although all of the third trimester abortions he performed were nonelective, approximately 80 percent of the abortions he performed after 20 weeks of pregnancy were therapeutic.

Dr. McMahon then provided the House Judiciary Committee with a listing of the so-called therapeutic indications for which he performed the procedure. That list is a real eye opener.

The single most common reason for which the partial-birth abortion was performed by him was maternal depression. He also listed substance abuse on the part of the mother as a therapeutic reason for which he performed the procedure.

In terms of fetal so-called abnormalities, Dr. McMahon's own list indicates that he performed the procedure numerous times in cases in which the fetus had no more serious a problem than a cleft lip.

Dr. Haskell has similarly acknowledged that he is not performing the procedure in critical instances of maternal or fetal health. In Dr. Haskell's testimony in Federal district court in Ohio last month, Dr. Haskell stated: ''Patients that are critically ill at the time they're referred for termination, I probably would not see. Most of the patients that are referred to me for termination are at least healthy enough to undergo an operation on an outpatient basis or else I would not undertake it.''

When asked about the specific health-related reasons for which he performed the partial-birth abortion procedure, Dr. Haskell specified that he has performed the procedure in cases involving high blood pressure, diabetes, and agoraphobia on the part of the mother. [See Dist. Ct. Tr. at 105.] Of course, agoraphobia is the fear of going outside. Dr. Haskell acknowledged that in district court. That, to me, is outrageous.

Now, let me be perfectly clear that I do not doubt that in some cases this procedure was done where there were life-threatening indications.

However, I simply must emphasize two points.

First, those cases are by far in the minority. We should get the facts straight so that our colleagues and the American people understand what is going on here.

Second, the most credible testimony at our hearing—confirmed by other available evidence—indicates that even where serious maternal health issues exist or severe fetal abnormalities arise, there will always be other, safer abortion procedures available that this bill does not touch.

MISREPRESENTATION NO. 5

Finally, the next misrepresentation I would like to correct concerns whether this procedure exists. That claim should be put to rest once and for all.

Some opponents of this measure still insist on claiming that the procedure banned by this bill—the partial-birth abortion procedure—does not exist solely because the two doctors who have admitted performing the procedure—the late Dr. McMahon of Los Angeles and Dr. Haskell of Ohio—used different terms for the procedure.

The bill clearly defines the term 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.'' I think that the term partial-birth abortion does provide an accurate, shorthand description of that full definition.

Dr. Haskell refers to the procedure as a D&X, while the late Dr. McMahon referred to the procedure as an intact D&E. As medical witnesses at the hearing pointed out, the procedures—by whatever name—are virtually unheard of in the medical and scientific literature.

As Dr. Watson Bowes of the University of North Carolina at Chapel Hill wrote to me, ''The term 'partial-birth abortion' is accurate as applied to the procedure described by Dr. Martin Haskell in his 1992 paper. There is no standard medical term for this method.''

I submit that there is no medically accepted terminology for the procedure because the procedure has not been medically accepted.

There can be no question, however, that the procedure banned by this bill does exist and has been performed repeatedly. That is disturbing. It is troubling.

We should be confronting the ethical dilemmas the procedure raises rather than sticking our heads in the sand and quibbling about whether the procedure exists under any particular name or another.

On that note, I would like to close by highlighting a statement made at our hearing by Helen Alvare of the National Conference of Catholic Bishops. She remarked that opponents of this bill keep asking whether enacting it would be the first step in an effort to ban all abortions.

In her view, however, the real question should be whether allowing this procedure would serve as a first step toward legalized infanticide. I urge the bill's opponents to ask themselves this question. What is the real purpose of this procedure?

That is the fundamental problem with this procedure. It involves killing a partially delivered baby.

The previous debate on this bill ended when the Senate voted to require a Judiciary Committee hearing. Let me say to my colleagues in the Senate that the testimony presented during this hearing more than confirmed my view that this procedure is never medically necessary and should be banned.

This testimony, regardless of one's view on the broader issue of abortion, provides ample justification for an ''aye'' vote on H.R. 1833.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from New Hampshire.

Mr. SMITH. Thank you very much, Mr. President. Senator BOXER and I have an informal agreement that after approximately 30 minutes I would yield the floor to her, if the Chair would be kind enough to remind me if I get carried away.

Mr. President, I rise today in very strong support of H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. I at this time would like to express my sincere gratitude to the Senator from Utah, Senator HATCH, first, for his splendid leadership on the issue of protecting the rights of the unborn. He has long been a champion of that issue, long before this Senator came to the Senate. But, also, I thank him for conducting the hearing, doing it in a fair manner, allowing all witnesses on both sides of the issue to be heard. He certainly performed a very valuable service, and I very much owe him a debt of gratitude for that.

Mr. President, as I am sure you know, initially I opposed the motion to refer this bill to the Senate Judiciary Committee for a hearing given the full record developed during the House's consideration of the bill. I did not really believe that the Senate needed to have a hearing. The House had extensive hearings on the bill, as you know, and quite a bit of debate.

Ultimately, however, I agreed to support the motion to refer the bill to the committee for the hearing because I was convinced that the more my colleagues could learn about this procedure about the brutality and the inhumaneness of it, the so-called partial-birth abortion procedure, I believed that the more my colleagues learned, the more I would have an opportunity to get more votes, frankly, in opposition to it. I believe that the bill will garner support, in other words, garner support to outlaw this procedure.

Later in my remarks today I am going to comment in some detail about the excellent hearing held by Senator HATCH and the Judiciary Committee on H.R. 1833. That hearing was held on November 17.

But first, Mr. President, I would like to remind my colleagues of just why it is that we are here. I want to focus again one more time on exactly what a partial-birth abortion is. The term ''birth'' involved in this procedure is somewhat interesting in the sense that it is called a partial birth, yet it is an abortion. I want to remind my colleagues of why a supermajority, a two-thirds majority, of the House of Representatives voted to pass this bill on November 1—two-thirds. And I would also like to remind my colleagues of why that supermajority encompassed both party and ideological lines on both sides, why it crossed those party

and ideological lines, why it included such people as House minority leader RICHARD GEPHARDT, Speaker GINGRICH, House minority whip DAVID BONIOR, and House majority leader DICK ARMEY, pro-choice Democrat PATRICK KENNEDY, and pro-choice Republican SUSAN MOLINARI.

Mr. President, the sole purpose of H.R. 1833 is to ban a very specific method of abortion that is performed at a time in the gestation period of about 5 months and continues on through the ninth month of gestation. So at any period of time between the fifth and the ninth month of gestation right up until the day of birth, these abortions can be and are performed.

These are late-term babies, Mr. President. There really is not any other term for it. You can cover it up and coat it a little bit by using other terms. But they are late-term babies, the youngest of whom—the youngest of whom—at 5 months may have a fighting chance to live on their own outside of the womb, and the older of whom unquestionably, unless there were severe abnormalities or birth defects, could live outside the womb.

So this specific abortion method called partial-birth abortion—that is what it is called—it is a straightforward, plain English term for a procedure in which a living baby's body is brought entirely into the birth canal, except for the child's head, which the abortionist holds inside the mother's womb, in other words, keeps the child from coming completely out of the womb, restrains the child, keeping the head inside the womb before he punctures the baby's head with scissors and inserts a suction catheter inside that incision and literally sucks the brains out of the child.

It is understandable that the defenders of partial-birth abortions do not like the clearly descriptive and entirely accurate term ''partial-birth abortion.'' I think most people on both sides of the aisle would, if they do not always agree with, certainly respect the words of Pulitzer Prize winning commentator George Will, who points out in an excellent column in the latest issue of Newsweek—he says, ''Pro-abortion extremists object to that name, preferring,'' instead now of partial-birth abortion, ''preferring 'intact dilation and evacuation' for the same reason that the pro-abortion movement prefers to be called pro-choice.''

Mr. Will goes on to conclude that what is intact here is a baby. That is what is intact, a baby. So, instead of ''partial-birth abortion,'' we call it ''intact dilation and evacuation,'' the removal of a child from the womb after taking the child's life by inserting a catheter into the back of the head through an incision made by scissors, with no anesthetic, and suck the brains out.

As I remind my colleagues today what a partial-birth abortion is, I am going to again use a series of illustrations that depict the partial-birth abortion procedure. I have done this before on the floor. I have been criticized for it. The press has not gotten it right. Some of them have not gotten it right. I was accused of showing photographs of aborted babies. I was accused of displaying a rubber fetus, whatever that is, all kinds of distortions of the record.

But what I have here are simple medical diagrams. That is all they are. They simply say what the procedure is and simply show it in pictures. I am going to show it again briefly here to show what we mean by partial-birth abortion because I think we should understand what it is.

As I do it, keep in mind that these illustrations have appeared in the American Medical Association's official newspaper, the AMA News. These are not my drawings. They are not drawn by the pro-life movement. They are not drawn by anyone other than they appeared in the AMA News. So they are medically accurate, they are straightforward, they are honest depictions of the partial-birth abortion procedure as described in an 8-page paper written in 1992 by Dr. Martin Haskell who has confessed, admitted, to performing more than 1,000—1,000—of these abortions—1,000 by one doctor, 1,000 abortions between the 5th and 9th month, Mr. President. Dr. Haskell's papers are included in the Judiciary Committee's official record of its November 17 hearing on this bill.

In a tape recorded interview with the AMA News on July 5, 1993, Dr. Haskell himself said:

> The drawings are accurate from a technical point of view.

Moreover, during a June 15, 1995 hearing before the House Judiciary Committee's Constitution Subcommittee, Johns Hopkins University Medical School Prof. Courtland Robinson, testifying on behalf of the National Abortion Federation, was questioned by Congressman CHARLES CANADY about the same illustrations of the partial-birth abortion procedure that I will be showing my colleagues again today. Dr. Robinson agreed that they were technically accurate, commenting ''this is exactly probably what is occurring at the hands of the physicians involved.''

This is a person who testified for the National Abortion Federation. So I think we ought to lay to rest the misrepresentations and the distortions and, frankly, the outright lies that have been perpetrated about me and about what I have presented on this floor. These are medically approved drawings that even the other side says are technically accurate.

Dr. Watson Bowes, a professor of obstetrics and gynecology at the medical school of the University of North Carolina Chapel Hill, also, in his own right, an internationally recognized expert on fetal and maternal medicine, wrote a letter to Congressman CANADY:

> Having read Dr. Haskell's paper, I can assure you that these drawings accurately represent the procedure described therein.

Let us look at the first illustration. With the aid of ultrasound, the abortionist determines the position the baby is in, and after he determines that, he reaches in with the forceps and takes the child by the feet with the forceps and turns it around inside the womb. Keep in mind that this is a late-term living baby.

Then, as you can see, Mr. President, the baby's leg is pulled out into the birth canal with the aid of the forceps. The baby is turned around so that it is a breech birth, because, obviously, if the head comes out first, it becomes a breathing child. If the feet come out first, it can be aborted, not a living thing. That is what we are told.

So the abortionist has to turn the child around. Usually it is the other way around, but now we turn the child around and make a breech birth here. So the baby's leg comes through the cervical opening and into the birth canal.

In the third illustration, we see that the abortionist now has the child enough removed from the forceps to be able to take the child in his or her hands from, as you can see in the drawing here, somewhere about midtorso. The abortionist takes ahold of this child, and he or she begins to pull the child all the way out of the womb and into the birth canal, with the exception of the head.

Let me just pause here for a moment to reflect on what is happening. If this were a doctor and this were a happy time, a woman wanting this child for whatever reason, this little child would be a patient—a patient, Mr. President. But this child is not a patient here, not in this procedure. There is no choice of his or her own. This child is not a patient. This child is a victim of the abortionist's hands. What could be kind, loving, gentle hands are now the hands of death, because, sadly, the abortionist's purpose we now see coming in the fourth illustration.

The horror of this is beyond all imagination, as far as I am concerned, having witnessed the birth of three of my own children, knowing what a beautiful experience that is to see. The abortionist holds the baby by the shoulders—I mean holds the baby by the shoulders—to prevent the child from being born, because the moment the head comes through the birth canal and out into the world, it has the protection of the Constitution of the United States.

So this doctor has to be very sure that this little head does not slip out, so he holds the child, he prevents the child from being born, because—and this may be a little girl or a little boy, but let us, just for the sake of argument, call it a little girl—if her head slips out, she is born alive. We cannot let that happen if we are abortionists, can we? That is a problem.

The columnist, John Leo, pointed out in his excellent article in the November 20 issue of U.S. News & World Report:

Stopping the head just short of birth is a legal figleaf for a procedure that doesn't look like abortion at all. It sounds like infanticide.

So, as I said, Mr. President, the abortionist holds the baby's head with the hand tightly. Obviously, the muscular action here, the contractions move this child from the womb. That is natural. But after the gripping at the shoulders with these hands in an unspeakably brutal act of, I believe, inhumanity, the abortionist jams a pair of scissors into the baby's skull. This is a late-term baby, fully capable of pain and feeling pain, and before he withdraws those scissors, which he opens to separate the wound, he enlarges that hole at the base of the baby's skull and inserts that catheter.

As you can see in the last drawing, what was moments before a living baby now hangs limp in the hands of the abortionist.

Remember what happens: Catheter in, suck out the contents of the—it is interesting, some of the pro-choice, pro-abortion people call it the contents, the contents of the head, not the brains.

You see, it sounds too much like a baby or a child to say ''brains,'' so you say ''contents,'' as if we were talking about a can of beans or something that you empty. Then in order to kill this baby, he uses that suction catheter to suck the baby's brains out—not the contents of some inanimate object—and the dead baby then is removed.

I ask my colleagues, if that is not a baby there, what is it? I ask anybody who wants to take the floor today and say to me that you support this procedure, tell me what it is if it is not a baby. And if it is a baby, then we are killing it, are we not? If it is not a baby, what is it? What is it?

I ask my colleagues and anyone else who may be listening, if you picked up the newspaper tomorrow morning in your hometown, wherever that may be—Anywhere, U.S.A.—and the front page of that paper said that the local pound decided to kill 100 unwanted puppies and kittens, with no anesthetic, by putting scissors in the back of the neck, by inserting a catheter in the back of the head and sucking the brains out, what would you think? My colleagues, ladies and gentlemen, American people, I think you would be outraged, I think you would be protesting probably in front of the SPCA; you would be calling it horrible, disgraceful, and saying, ''What are we doing? Why would I put my dog to sleep in such an inhumane manner?''

Well, Mr. President, we are doing it to children. We are doing this to children. There you have it. But for the decision of someone else, not the baby, what could have been that beautiful journey in the process of birth, through the birth canal and into the world, which each and every one of us took because nobody got here without being born—there may have been other procedures, I grant, such as a cesarean, where you may have been born, but in most cases through the birth canal. But that beautiful journey from our mother's safe, warm womb in the birth canal and out into the wonderful world. But that is not what happens here. It is perverted by the abortionist into a savage rendezvous with death. That is exactly what it is. It is a rendezvous with death.

Do you know what? I have been called an extremist because I have said that, because I have been down here on the floor showing these drawings, pointing out to the American people what this is. I am accused of being an extremist. What is the person who performs this act? What is that person? In a partial-birth abortion, the journey of life, the beautiful process of birth—birth—this is not the average abortion we are talking about. They are bad enough, and everybody knows how I feel about those, but that is not the issue here. This is the issue of late-term abortions, which is why so many pro-choice, clear-thinking, sensible Democrats and Republicans, liberals and conservatives, in the House of Representatives voted to stop it, because they were horrified by it.

The people who do it are the extremists. That is who the extremists are. This journey of life is interrupted in the ultimate act of violent oppression. The abortionist uses his brute strength, his powerful hands, against an innocent little child, helpless, defenseless child. He stops her journey into life, holds her by the shoulders and jams scissors into her head and removes her brains.

Mr. President, this is the United States of America. When I came to the Senate in 1991, I never really dreamed that I would have to take the floor of the Senate and defend the right of a child, perhaps as old as 8½ to 8¾ months in the uterus, to have to stand here and defend this child. What a sick, horrible perversion.

How could this be in this country? How could we possibly stand by in this country and let this happen? But then, again, there is great precedent for this, Mr. President, because we saw it in the Civil War, prior to the Civil War, a couple hundred years prior to the Civil War—almost 300 years prior to the Civil War—well, 200 anyway. Slavery, which was a brutal act against our fellow mankind. We stood around for a couple hundred years before we stopped that. But here we are.

What have we come to as a people? We stand here on the floor day after day, month after month, year after year and talk about the great issues of the day—the deficit, the debt, whether or not we ought to send troops to Bosnia, the Persian Gulf, nominations of Supreme Court Justices, great issues. We have had some great debates here. But what have we come to, to be here on the floor, to have to try to stop something as barbaric as this? It should be stopped. It should not be happening. We should not have to be here.

A little baby has a right to be born. In a partial-birth abortion, a doctor who swore to the Hippocratic oath ''to do no harm'' does the worst possible harm to the youngest, most defenseless little patient that he could ever have. No wonder the foremost expert practitioner of this procedure, Dr. Martin Haskell, the man who admittedly performed a thousand of them, did not have the guts to accept Chairman HATCH's invitation to appear before the Senate Judiciary Committee to defend his procedure.

Mr. President, we spent hours on the floor of the Senate in the early part of November with my colleagues on the other side of this issue demanding a hearing. ''We must have a hearing,'' I heard said. ''We must have these people come in and tell us about this procedure, because we can defend it.'' But Dr. Haskell did not come.

In the November 20 issue of the American Medical Association's AMA News, one of Dr. Haskell's fellow abortionists really told us why Dr. Haskell did not have the guts to appear at the Senate Judiciary Committee hearing. Here is what he said, speaking of the procedure, and this is Dr. Warren Hearn, author of ''Abortion Practice,'' the Nation's most widely used textbook on abortion standards and procedures: ''You can't defend it.'' He said, ''You can't defend it.''

That is why he did not show up. You cannot defend it.

Thankfully, however, Mr. President, a nurse who once witnessed one of Dr. Haskell's partial-birth abortions, Brenda Pratt Shafer, did have the guts to appear before the Judiciary Committee. This is how she described what she saw:

I am Brenda Pratt Shafer, a registered nurse with 13 years of experience. One day in September, 1993, my nursing agency assigned me to work at a Dayton, Ohio, abortion clinic. I had often expressed pro-choice views to my two teenage daughters, so I thought this assignment would be no problem for me. But I was wrong. I stood at a doctor's side as he performed the partial-birth abortion procedure, and what I saw is branded forever on my mind. The mother was 6 months pregnant. The baby's heartbeat was visible, clearly, on the ultrasound. The doctor went in with forceps and grabbed the baby's legs and pulled them down through the birth canal. Then he delivered the baby's body and the arms, everything 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 swinging.

Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinched, startled reaction, like a baby does when he thinks 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. Now, the baby was completely limp.

Then, the last line—and I am going to end here and yield the floor to Senator BOXER—the last, most compelling line, ''I never went back to that clinic, but I am still haunted by the face of that little boy—it was the most perfect, angelic face I have ever seen.'' Brenda Pratt Shafer.

I yield the floor.

Mrs. BOXER. Mr. President, it is a privilege for me to take to the floor this evening in a tough debate and one that I hope will lead the Senate to amend this bill.

This bill is flawed because it makes no exception, even for the life of the mother. It criminalizes a procedure, which means that doctors, by virtue of using it without having a chance to even explain it, will be hauled into court, perhaps into jail. It sets us on a slippery slope that greatly concerns me.

I speak as a mother. I speak as a grandmother. I speak as someone who came here in part to protect people without a voice, the most vulnerable among us.

We hear similar arguments that my friend engaged in the last time that this was brought to the floor, and the Senate wisely referred it to the Judiciary Committee. I want to thank my colleagues for voting with us on that. We had to fight to get an agreement. This was going to be rushed through, without hearing from the women who had a story to tell, without hearing from the doctors who think it is necessary, without hearing from the constitutional lawyers.

Very wisely, we took a deep breath and we sent this to the committee. It was a good hearing. It was a balanced hearing. I hope Members will read the record very closely. Then I hope they will support amending this bill.

I want to make a couple of comments before I go into a presentation that I hope will pinpoint my arguments.

Mr. President, not every birth is a beautiful journey. We pray to God that everyone we know and love—everyone, every woman, every family—can experience the beautiful journey of birth without problem. I know a lot of women have had problems. It is not always easy. Not every fetus finds a safe and warm womb. No, they do not. Some are born very early. Some develop terrible diseases and problems. Some women are diagnosed with serious cancer, and they know they could lose their life if they proceed to term.

Life is not always, as somebody once said, a bowl of cherries. Sometimes it is very hard.

Here we stand as Senators—not as doctors—outlawing a procedure, a medical procedure. I daresay if you were at home and you had never heard anything about this before and you came back from, say, another planet, and you turned on your TV and you were channel surfing and came to a station and were watching us, you would probably think this is a medical school lecture. I watched the beginning of this debate on TV, and it was just like a medical lecture. There was talk about what anesthesia does. There was talk about what kind of instruments are used. There was talk about things that we have no knowledge of. We see medical drawings—admittedly, done by physicians—medical drawings. What are we doing? This is not a medical school. This is not an ethical panel of a medicine school.

Senator KENNEDY, I thought, had a very important sentence in his prepared remarks. He said some Senators could be accused of practicing medicine without a license. That is not our job. I was not sent here to be a physician, to judge medical procedures, or to be God. That is for sure.

I also take great exception to certain things that were said in this debate. I want to put those right out there because this will be a long-heated argument. I just want to go on record. It will not make a bit of difference that I am particularly offended, but I want to put it on the record.

I want to say to my friends on the other side who are leading the charge for criminalizing a medical procedure, that doctors who perform abortions are doctors. They are not abortionists. They are physicians. Many of them have saved women's lives. And you call them abortionists?

Abortion is legal in this country. They are doctors who perform abortions. They are being harassed. They are being threatened. This kind of rhetoric on this floor adds to the problem.

Case in point: My colleague said Dr. So-and-so confessed that he performed abortions. He confessed. Notice the word. Who confesses? Somebody who is guilty of a crime. Abortion is not a crime in this Nation.

Yes, there are those who want to make it a crime. They want to put the women in jail. We will get to that another day, I assure you. If they win this one, that is coming down the road.

I say to my colleagues on the other side of this issue, do not use the term ''abortionist'' if you can help yourself. Say doctors who perform abortion. And do not say, he confessed. Then, my colleague said, He admitted.

Yes, you are right, this doctor did not come before the panel. Other doctors did. They defended this procedure, said it was the safest procedure, and said that other procedures were 14 times more dangerous for the woman.

Maybe you do not care about the woman. We do not see on that chart the face of the woman. Why is that? I say it is on purpose. It is a woman carrying a baby. I say the word ''baby.'' It is a woman carrying a baby who finds out in the late term some horrible thing she is faced with, with her family.

So do not talk about confessing, and do not talk about admitting.

I ask unanimous consent to have printed in the RECORD a letter from Dr. Haskell's attorney at this point.

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

THE CENTER FOR REPRODUCTIVE LAW & POLICY,

New York, NY.

Senator ORRIN G. HATCH,

Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I am writing on behalf of Martin Haskell, M.D., whom I currently represent in litigation challenging Ohio House Bill 135, which like H.R. 1833, bans certain methods of abortion. Because of the pending litigation, Dr. Haskell must decline your kind invitation to testify before the Senate Judiciary Committee on Friday, November 17, 1995 about the federal ban on ''partial birth abortions.'' Nevertheless, he asked me to convey you his ardent opposition to the legislation, which will prevent him from providing safe and appropriate medical services to his patients needing second trimester abortions.

Unfortunately, over the last several years, Dr. Haskell has been the object of unlawful violence and intimidation by those who oppose abortion. In addition to physical harassment at home and work, which have included blockages and threats by abortion opponents, he has been the victim of a firebomb that extensively damaged one of his clinics. As a result, Dr. Haskell has recently refused public and media appearances that my increase the risk of violence against him.

While Dr. Haskell is mindful that his appearance before your Committee might clarify much of this misinformation currently circulating about his medical practice and about the purpose and effect of his legislation, he regrets that he will be unable to attend. Please feel free to contact me if I may be of further assistance to you.

Very truly yours,

KATHRYN KOLBERT,

Vice President.

Mrs. BOXER. In this, the attorney explains why the doctor did not come and references the fact that this doctor, unfortunately, has been the object of unlawful violence and intimidation by those who oppose abortion. In addition to physical harassment at home and at work, which have included blockades and threats by abortion opponents, he has been the victim of a firebomb that extensively damaged one of his clinics, and he has not made public appearances because there are some people who happen to love him.

So, please choose your words carefully here. It could have an impact well beyond your meaning.

I read the committee's hearing, the transcript, every word. I am very glad we had that hearing. It is not surprising, the doctors who testified were split on the issue. Some said it is not a necessary procedure. Others said it is quite necessary, it is the safest procedure. Some said we need to have that procedure to save a woman's life. Others said, ''We disagree.''

We do know one thing. The 35,000-member organization of the OB/GYN's, the obstetricians and gynecologists, say no to this bill. The experts, the legal experts are split on the constitutionality.

So, I say we need to look at the real-life people who have had this procedure because they come to us with a real story, not some philosophical point of view—and we all have them. As a matter of fact, one of these women who came before us describes herself as a conservative Republican pro-life person. Imagine. And that testimony cannot be derided by anyone in this Chamber, regardless of his or her view. Those people told the truth about their lives, and they were backed up by their families, and no one could contradict them.

That is the face that has been missing from this debate, the face that has been missing, the mother's face.

I was very glad that we had the hearing because this mother came out and told her story. I am going to show you a photograph of this woman and her family: Coreen Costello, of Agoura, CA, she is 31, a full-time wife and mother of two. Her husband Jim is 33. He is a chiropractor. Children: Chad 7, Carlin 5. She is now pregnant. She is in the third month of her pregnancy. I want you to keep that face in mind and the faces of this family in mind. I want to tell you about her and her story.

This is her statement. I am going to read it. It is brief. I want you to listen to the words and then I want you to think about what has been said here, the cruelty expressed toward the medical profession that took a Hippocratic oath to help a family like this.

Ms. COSTELLO. Senator Hatch, Senator Kennedy, and members of the committee, I would like to really thank you for allowing me to speak to you today. My name is Coreen Costello. I live in Agoura, California, with my husband, Jim; my son, Chad; and my daughter, Carlin. Jim is a chiropractor and I am a full-time wife and mother.

I am a registered Republican and very conservative. I do not believe in abortion. Because of my deeply held Christian beliefs, I knew that I would never have an abortion. Then on March 24th of this year when I was 7 months pregnant, I was having premature contractions and my husband and I rushed to the hospital.

During an ultrasound, the physician became very silent. Soon, more physicians came in. I knew in my heart that there was something terribly wrong. I went into the bathroom and I sobbed. I begged God to let my baby be okay. I prayed like I have never prayed before in my life. My husband reassured me that we could deal with whatever was wrong. We had talked about raising a child with disabilities. We were willing to take whatever God gave us. I had no problem with that.

My doctor arrived at 2:00 in the morning. He held my hand and informed me that they did not expect our baby to live. She was unable to absorb any amniotic fluid and it was puddling into my uterus. That was causing my contractions. This poor precious child had a lethal neurological disorder and had been unable to move for almost 2 months. The movements I had been feeling over the past months had been nothing more than bubbles and fluid.

Her chest cavity had been unable to rise and fall to stretch her lungs to prepare them for air. Therefore, they were left severely underdeveloped, almost to the point of not existing. Her vital organs were atrophying. Our darling little girl was dying.

A peri—peri—a specialist recommended terminating the pregnancy. This is not a medical school class, so I do not know the names of the specialties.

A perinatologist recommended terminating the pregnancy. For my husband and me, this was not an option. I chose to go into labor naturally. I wanted her to come on God's time. I did not want to interfere. It was so difficult to go home and be pregnant and go on with life knowing my baby was dying. I wanted to stay in bed. My husband looked at me and said, Coreen, this baby is still with us; she is still alive; let's be proud of her; let's make these last days of her life as special as possible. I felt her life inside of me and somehow I still glowed.

At this time, we chose our daughter's name. We named her Katherine Grace, Katherine meaning pure, Grace representing God's mercy. Then we had her baptized in utero. We went to many more experts over the next 2 weeks. It was discovered that Katherine's body was rigid and she was stuck in a transverse position. Due to swelling, her head was already larger than that of a full-term baby. Natural birth or induced labor were not possible; they were impossible.

I considered a Cesarean section, but experts at Cedars-Sinai Hospital were adamant that the risks to my health and possibly my life were too great. There was no reason to risk leaving my children motherless if there was no hope of saving Katherine. The doctors all agreed that our only option was the intact D&E procedure.

That is the procedure this bill will outlaw.

I was devastated. The thought of an abortion sent chills down my spine. I remember patting my tummy, promising my little girl that I would never let anyone hurt or devalue her.

After Dr. McMahon explained the procedure to us, I was so comforted. He and his staff understood the pain and anguish we were feeling. I realized I was in the right place. This was the safest way for me to deliver. This left open the possibility of more children, it greatly lowered the risk of my death, and most important to me, it offered a peaceful, painless passing for Katherine Grace.

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. Even if regular birth or a Cesarean had been medically possible, my daughter would have died an agonizing death.

When I awoke a few hours later, she was brought in 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. My husband and I held her tight and sobbed. We stayed with her for hours, praying and singing lullabies. Giving her back was the hardest moment of my life.

Due to the safety of this procedure, I am again pregnant now. Fortunately, most of you will never have to walk through the valley we have walked. 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 advice from are politicians.

I am going to read it again.

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 God.

What happened to our family is heartbreaking and it is private, but we have chosen to share our story with you because we hope it will help you act with wisdom and compassion. I hope you can put aside your political differences, your positions on abortion, and your party affiliations 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. 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. Families like mine are counting on you. Thank you very much.

I say we need to look at the real-life people who have had this procedure. We have to put a mother's face on that drawing and into this debate because we know what will happen.

Some doctors say that this procedure is absolutely necessary to save a woman's life and protect her health. Others say no. What if the ones who say it is necessary are right? You know who is going to pay the price. Not the doctor, because he or she is going to stop doing this procedure. There is no exception in this bill for the life and health of the mother. There is an affirmative defense. That means the doctor has to go into court and defend himself or herself. The burden is on the physician to prove that he was acting or she was acting to save the woman's life and health. So the doctors will stop doing this procedure.

That is what this bill is all about. So who is left with fewer options? The women. It is like telling women—we have seen this—they had better not take a mammogram. We are going to say you do not really need it until you are 50. We faced that debate. Well, that is the only tool we have to save her life. And we fought against that recommendation, and we said to women who are 40 to go get those mammograms. Maybe we will only save 15 percent of you instead of a larger number when you are 50. But that is the only tool we have.

So when we take a tool away, who will be hurt? Not the doctor. It will be your wives. It will be your sisters. It will be your children and mine and their families.

We are over 90 percent men in this Senate. And I want to appeal to those men in this Senate who talk about the beauty of the baby going through the birth canal as if they have ever experienced this themselves. I take offense when you say you are the only ones who care about babies and you denigrate people on the other side and say that we will not talk about the babies. Well, I want to talk about the babies. And I want to talk about these babies who could have lost their mother, a pro-life Republican woman who came here to testify.

So what I am going to do during this debate is concentrate on putting a mother's face on the screen and putting her family's face on the screen, and tell her story because it has been left out of this debate. I plan to talk about the chamber of horrors a doctor would have to go through if he did feel that this was the only option—and when he took his Hippocratic oath, he said, to save the life of his patient—and if he feels that is the only procedure; the chamber of horrors that he would have to go through to protect a woman's health and even her life. I will lead you through what would happen to such a physician.

This is America. What are politicians doing in the hospital room? What are

politicians doing telling this religious woman how to lead her life and what to do? It is an outrage to me.

Roe v. Wade clearly says in late term the State shall regulate abortion, and here is a crowd who comes in here saying we are going to make welfare be run by the State. Fine. Medicaid by the States—we are going to have medical savings accounts. We are going to let Medicare ''wither on the vine,'' a well-known quote of NEWT GINGRICH. We do not need a Federal Government. But now all the doctors in here—as far as I know we only have one, and he was never an ob-gyn—are going to decide what procedure should be banned and what procedure should not be banned.

So I am going to put the face of the mother on this debate. I have many other stories we will tell in the course of time. I am going to take you through what happens to a physician—physicians most of whom who have brought thousands of babies into this world but may believe that this is the safest procedure to use so that this beautiful mother can get pregnant again and can stay alive for her husband and her children.

My colleagues, we have a lot of work to do. We do not even have a budget, and they are talking over there in the House about shutting the Government down again. Why do we not do what we are supposed to do? Why do we not stay out of things that are better left to the family? As she said, the last thing she wants is a politician involved in this tragedy. I think she wants us to do our job. Get a budget. Get a budget. Sit down around the table. Let us negotiate. Let us decide if Medicare and Medicaid are important. Let us decide if environmental protection and education are important. Let us decide how to balance this budget in 7 years with a touch of humanity. So, yes, babies and kids can get health care and can get an education.

That is what we are supposed to do. But, no. We are here with medical drawings. And do you want to know why people on the other side voted overwhelmingly for this bill? Because they never had a chance to amend it. We will give you that chance. We will give you the chance to show your support for States rights. We will give you that chance to stand up for the life and health of the mother.

This is a different place than the House where the Speaker controls the way things come to the floor. I know. I served there for 10 years. It is real difficult.

We have a chance. We have a chance to think about these women and their families and craft a bill that will not put people like this at risk.

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

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in opposition to this legislation that I know is well intended. But I think it is wrong. Our colleague from California mentioned one witness. Let me read just a part of the testimony of another witness, Mrs. Viki Wilson.

Mr. President, I ask unanimous consent that her full statement be printed in the RECORD.

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

TESTIMONY OF VIKI WILSON TO THE SENATE JUDICIARY COMMITTEE IN OPPOSITION TO H.R. 1833/S. 939, NOVEMBER 17, 1995

I'd like to thank the Judiciary committee for allowing me to testify today. My name is Viki Wilson. I am a registered nurse, with eighteen years experience, ten in pediatrics. My husband Bill is an emergency room physician. We have three beautiful children: Jon is 10, Katie is 8, and Abigail is in heaven with God.

In the spring of 1994 I was pregnant and expecting my third child on Mother's Day. The nursery was ready and we were excited anticipating the arrival of our baby. Bill had delivered our other two children, and he was going to deliver Abigail. Jon was going to get to cut the cord and Katie was going to be the first to hold her. She had already become a very important part of our family.

At 36 weeks of pregnancy all of our dreams and happy expectations came crashing down around us. My doctor ordered an ultrasound that detected what all my previous prenatal testing, including a chorionic villus sampling, an alphafetoprotein and an earlier ultrasound had failed to detect, an encephalocoele. Approximately 2/3 of my daughter's brain had formed on the outside of her skull. I literally fell to my knees from the shock. I immediately knew that she would not be able to survive outside by womb. My doctor sent me to a perinatologist, a pediatric radiologist and a geneticist all desperately trying to find a way to save her. My husband and I were praying that there would be some new surgical technique to fix her brain. But all the experts concurred. Abigail would not survive outside my womb. And she could not survive the birthing process, because of the size of her anomaly her head would be crushed and she would suffocate. Because of the size of her anomaly, the doctors also feared that my uterus would rupture in the birthing process most likely rendering me sterile. It was also discovered that what I thought were big healthy strong baby movements were in fact seizures. They were being caused by compression of the encephalocoele that continued to increase as she continued to grow inside my womb. I asked, ''What about a c-section?'' Sadly, my doctor told me ''Viki, we do c-sections to save babies. We can't save her. A c-section is dangerous for you and I can't justify those risks.

The biggest question for me and my husband was not ''Is she going to die?'' A higher power had already decided that for us. The question now was ''How is she going to die?'' We wanted to help her leave this world as painlessly and peacefully as possible, and in a way that protected my life and health and allowed us to try again to have children. We agonized over these options, and kept praying for a miracle. After discussing our situation extensively, our doctors referred us to Dr. McMahon. It was during our drive to Los Angeles that we chose our daughter's name. We named her Abigail, the name my grandmother had always wanted for a grandchild. We decided that if she were named Abigail, her great-grandma would be able to recognize her in heaven.

My husband grilled Dr. McMahon with all the same questions that many of you probably have asked about the procedure. We would never have let anything happen to our baby that was cruel, or unnecessary . . . and Bill as my husband, loving me, wanted to be sure it was safe for me.

Dr. McMahon and this procedure were our salvation. 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 then killed her, we would never have allowed that to happen.

Losing Abigail was the hardest thing that's ever happened to us in our life. After we went home, I went into the nursery and sat there holding her baby clothes crying and thinking she'll never get to hear me tell her that I love her.

I've often wondered why this had happened to us, what we had done to deserve such pain. I am a practicing Catholic, and I couldn't help believing that God had to have some reason for giving us such a burden. Then I found out about this legislation, and I know then and there that Abigail's life had a special meaning. God knew I would be strong enough to come here and tell you our story, to try to stop this legislation from passing and causing incredible devastation for other families like ours. There will be families in the future faced with this tragedy because pre-natal testing is not infallible. I urge you, please don't take away the safest procedure available.

I told the Monsignor at my parish that I was coming here, and he supports me. He said, ''Viki, what happened to you wasn't about choice. You didn't have a choice. What you did was about preserving your life.'' I was grateful for his words. This issue isn't about choice, it's about a medical necessity. It's about life and health.

My kids attend a Catholic school where a playground was built and named in Abigail's honor. I believe that God gave me the intelligence to make my own decisions knowing I'm the one that has to live with the consequences. My husband said to me as I was getting on the plane to come to Washington ''Viki, make sure this Congress realizes this is truly a Cruelty to Families Act.''

Mr. SIMON. Mr. President, here is what she said.

My name is Viki Wilson. I am a registered nurse with eighteen years experience, ten in pediatrics. My husband Bill is an emergency room physician. We have three beautiful children. Jon is 10. Katie is 8, and Abigail is in heaven with God.

At 36 weeks of pregnancy all of our dreams and happy expectations came crashing down around us. . . . . Approximately 2/3 of my daughter's brain had formed on the outside of her skull. I literally fell to my knees from shock [when told about this by the doctor]. I immediately knew that she would not be able to survive outside my womb. . . . My husband and I were praying that there would be some new surgical technique to fix her brain. But all the experts concurred. Abigail would NOT survive outside my womb. And she could not survive the birthing process. Because of the size of her anomaly her head would be crushed and she would suffocate. Because of the size of her anomaly, the doctors also feared that my uterus would rupture in the birthing process most likely rendering me sterile. It was also discovered that what I thought were big, healthy, strong baby movements were in fact seizures.

. . . 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 then killed her. We would never have allowed that to happen.

Losing Abigail was the hardest thing that's ever happened to us in our life. After we

went home, I went into the nursery and sat there holding her baby clothes crying and thinking she'll never get to hear me tell her that I love her.

I've often wondered why this had happened to us, what we had done to deserve such pain. I am a practicing Catholic. I couldn't help believing that God had to have some reason for giving us such a burden. Then I found out about this legislation, and I knew then and there that Abigail's life had a special meaning. God knew I would be strong enough to come here and tell you our story, to try to stop this legislation from passing and causing incredible devastation for other families like ours.

. . . My kids attend a Catholic school where a playground was built and named in Abigail's honor. I believe that God gave me the intelligence to make my own decisions knowing I'm the one that has to live with the consequences. My husband said to me as I was getting on the plane to come to Washington, ''Viki, make sure this Congress realizes this is truly a Cruelty to Families Act.''

What we are asked to do in this legislation is to say to the physicians that helped Viki Wilson and Coreen Costello and their families, if you assist these families, you will go to prison for 2 years.

That is a decision we should not make.

In the hearing, I said to the one physician who testified against this bill, who incidentally served 11 years as a missionary in Korea, who now is on the faculty at Johns Hopkins, I have been thinking about it, done exactly 30 minutes of research, and maybe we should—because a brain tumor is a life and death matter, just as this is a life and death matter—maybe we should introduce legislation that says what kind of brain tumor surgery physicians can perform. And I said to him, what do you think about that? He said, of course, it would be a terrible idea. And he followed through because he recognized the analogy that I was making.

For the first time in the history of the United States, if this is adopted, we will be saying to physicians, this is what you have to do; these are the procedures you have to follow.

I frankly have no ability to make that decision.

I wrote to the departments of obstetrics and gynecology of the medical schools in Illinois and asked the people who were in charge what they thought of this legislation. I enclosed a copy of the legislation, and I asked three questions.

I ask unanimous consent that all of these letters be printed in the RECORD, Mr. President.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF CHICAGO, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY, THE CHICAGO LYING-IN HOSPITAL,

Chicago, IL, November 14, 1995.

Hon. PAUL SIMON,
U.S. Senator, U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR SIMON: Thank you very much for your letter of November 9 regarding H.R. 1833, the ''Partial-Birth Abortion'' bill. I shall address your questions in order.

1. The term ''partial birth abortion'' appears in the bill to be a loosely defined entity and that makes interpretation difficult. There is a procedure known as ''Dilatation and Evacuation'' (D & E) which is done to interrupt late second trimester pregnancies. Presumably this medically acceptable procedure is not being addressed in the bill, but the language is sufficiently vague that I cannot be certain. Unquestionably, that procedure should never be outlawed. I believe there have been rare instances in which some physicians have done early third trimester interruption of pregnancy, presumably for late-discovered lethal or serious genetic defects, but I am not familiar with this procedure. However, I assume these are done for medically appropriate reasons.

2. I am strongly opposed and extremely concerned about the Federal Government deciding the acceptability of medical procedures in practice. These should be decided based on medical information and not by a legislative process. It appears ironic to me that the current emphasis in Washington is to reduce the Federal Government's involvement in our lives. The proposed legislation goes alarmingly in the opposite direction.

3. A physician should obviously practice medicine ethically and legally. I oppose the notion that criminal or civil penalties be introduced into the practice of medicine in the United States.

Thank you very much for the opportunity to comment on these issues. Please do not hesitate to contact me again, should you desire.

Sincerely yours,

ARTHUR L. HERBST, M.D.

WASHINGTON UNIVERSITY SCHOOL OF MEDICINE AT WASHINGTON UNIVERSITY MEDICAL CENTER, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY,

St. Louis, MO, November 22, 1995.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR SIMON: Thank you very much for your letter of November 9, 1995, concerning the legislation H.R. 1833. I will attempt to answer the questions as you have posed them.

One, I am familiar with the procedure, even though I have never performed it myself. I do not agree with those who support the bill. There are instances in which I think that this procedure is appropriate. Two specific instances come to mind. One would be when the life of the woman is in danger and the most expeditious delivery of the fetus would be the safest method for her. This method allows for that, since the fetus can be delivered through a partially dilated cervix. The other instance would be a fetus that is doomed to die after delivery or has a series of severe malformations. Examples of this would be fetuses that have no lungs or no kidneys. Again, this technique of abortion can be safest for the mother because it can be performed when the cervix is not fully dilated. I believe it is cruel to force a woman to carry a fetus to term when she knows that the baby will die after delivery. One can imagine the psychological distress that a woman would have when she is obviously pregnant and people continuously inquire how she and the baby are doing. Imagine having either to hide the problems of the fetus or to not tell the inquiring person. Many times, the inquiries to the pregnant woman are simply part of a normal conversation between persons, but a woman who is carrying a fetus doomed to die would find this a very stressful situation. The instance in which this procedure would be useful is when the discovery is made after 20-22 weeks of pregnancy. It can become the safest procedure for the mother. I must also add that I find it appropriate to perform this procedure when the mother and fetus are both normal. I personally would never do that, and I would have difficulty watching such a procedure being performed on a normal fetus as an elective termination.

In answer to your second question, I have great worries about the federal government having a say on what medical procedures can and cannot be performed. This procedure is an excellent example of why I think the federal government would have problems directing the care of individual patients. There are so many possibilities concerning threats to the pregnant woman's life or fetal malformations that may or may not lead to problems in the future. This also becomes even more complicated because the state of medical art is continually changing and what would be a threat to a woman's life one year might cease to be one in future years, as medical technologies improve. I believe that the federal government is simply too cumbersome to micro-manage the care of individual patients by individual physicians.

In answer to your third question, I have worries about the imposition by Congress of criminal and civil penalties on doctors performing certain medical procedures. It really is tied to the answer to the second question, in that this is a complex area and it is difficult to micro-manage from a distance. I must say that I am very troubled by Section (e) on page 3 of the bill. Physicians would find very little comfort from the fact that ''it is an affirmative defense to a prosecution or a civil action under this section, which must be proved by a preponderance of evidence, that the partial-birth abortion was performed by a physician who reasonably believed the partial-birth abortion was necessary to save the life of the mother; and no other procedure would suffice for that purpose.'' Very few physicians would risk prolonged civil or criminal proceedings, particularly in an area that is so charged as abortion. The other problem with this is that it is absolute in that no other procedure would suffice for that purpose. It would be difficult in any clinical situation to come to the conclusion the only one procedure would suffice.

My greatest problem with this legislation is that we could so frighten physicians that the best procedure for the pregnant woman would be precluded by the legislation. We physicians always wish to place the welfare of our patients first, and bills such as this would make us weigh what we believe to be best for patients against protection for ourselves. I, as a physician, would like never to be put in such a position. The welfare of the patient should always come first.

I hope that my thoughts have been helpful to you, and I appreciate it very much and am indeed honored that you would seek my thoughts on this important and controversial issue. If I can be of further help to you, please feel free to contact me about this or any other medical issue concerned with Obstetrics and Gyncelogy.

Sincerely,

JAMES R. SCHREIBER, M.D.,
PROFESSOR AND HEAD,
Obstetrics and Gynecology.

ROCKFORD HEALTH SYSTEM,
ROCKFORD MEMORIAL HOSPITAL,

Rockford, IL, November 14, 1995.

Hon. PAUL SIMON,
U.S. Senator, Dirksen Building, Washington, DC.

DEAR SENATOR SIMON: This letter is a response to your inquiry of November 9, 1995, regarding Bill H.R. 1833 which is to be discussed on November 17, 1995. You raised three issues concerning the legislation and the procedure which I will attempt to respond to.

Although I am not an obstetrician, I am somewhat familiar with the procedure. The procedure that is performed is generally done somewhat differently than described in the Bill that was attached to your letter. The procedure apparently is rarely done and is not done at all at this institution. However, there are solid medical indications for doing this procedure when it is deemed safer to perform this than an operative procedure to remove the fetus either if it is non-viable or the mother's life is in danger. Abortions are not performed at this institution for a variety of reasons. Therefore, the outcome of this legislation will have very little impact at this level.

You did raise the question about how I feel about the federal government having a say in what medical procedures can and cannot be performed. I, as my colleagues do, feel quite strongly that the role of the government should not stray into the medical arena regarding what is appropriate or non-appropriate therapy. As you know, all of the ramifications from legislating at this level simply cannot be understood or realized prior to the event and the results may be completely different than those intended. Determining which medical procedures should and should not be done should lie within the confines of the institution performing these procedures. This should be decided by sound medical judgement and where appropriate, the ethical and moral considerations will be discussed at a local level with the Ethics Committee.

In a similar vein, I feel that Congress imposing criminal and civil penalties upon physicians performing medical procedures borders on the ridiculous. If Congress begins to legislate at this level, where can it possibly end?

I hope these comments are of help, and if I can be of any further assistance, please do not hesitate to ask me.

Sincerely,

DONALD E. MCCANSE, M.D.,
Vice-President, Medical Affairs.

EVANSTON HOSPITAL CORP.,
DEPARTMENT OF OBSTETRICS AND GYNECOLOGY,
Evanston, IL, November 13, 1995.

Hon. PAUL SIMON,
Dirksen Building,
Washington, DC.

DEAR SENATOR SIMON: In response to your letter of November 9th, I offer the following comments to your questions:

(1) Yes I am familiar with the procedure described in legislation, HR 1833, but have not seen or done one. We do not perform this procedure at this institution. In proper hands (i.e. qualified physician) the procedure does have a place in the armamentarium of termination procedures.

(2) The basic question is, does the federal government have a place in deciding what medical procedures should or should not be performed. I feel strongly not. This is a medical decision.

(3) Similarly, Congress has no business imposing penalties on physicians for performing a certain procedure. If any government sanction would be appropriate, it might be at the State Department of Professional Regulation.

The overall issue of freedom of choice in pregnancy termination should not be clouded or interfered with by dictation of how the termination is performed.

I appreciate the opportunity to provide input into this important matter and thank you for asking for my opinion.

Respectfully,

DAVID W. CROMER, M.D.

MICHAEL REESE HOSPITAL AND MEDICAL CENTER, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY,
Chicago, IL, November 21, 1995.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR SIMON: I am an Associate Professor of Clinical Obstetrics and Gynecology at the University of Illinois and currently in active practice of Maternal Fetal Medicine or ''high risk'' obstetrics at both Michael Reese Hospital and the University of Illinois Hospital. Therefore, the issue at hand has great importance to me and to the patients for whom I provide care.

I would like to answer your questions by telling you that I am unfamiliar with the term ''Partial Birth Abortion.'' After reading about it from descriptions in the press, I do not find that it results in an outcome that is any different from other techniques of abortion and, therefore, since abortion is a legal procedure, I have no objection to it. I feel very strongly that the federal government should not have a say in defining which medical procedures should be performed. I also believe that the Congress should not impose criminal and additional civil penalties on doctors because they perform one medical procedure and not another to accomplish the same outcome for their patient.

Prior to discussion of H.R. 1833, I was unaware of the term ''Partial Birth Abortion.'' It is neither a term found in the ICD–9 catalog of medical diagnoses or medical procedures published by the American Medical Association nor can it be found in any medical text book with which I am familiar. After reviewing statements that have appeared in the press, I understand that the term has been used to describe one of several techniques that obstetric surgeons have used to accomplish an abortion by enlargement of the opening of the cervix or mouth of the womb (dilation) and removal of the fetus (evacuation). Dilation and evacuation (D&E), the accepted terminology, is used to perform an abortion after the first thirteen weeks (first trimester) of pregnancy. While many physicians perform abortions and have been required to be trained to do that procedure by the American Board of Obstetrics and Gynecology, only a few physicians perform D&E for which they have received additional training.

I present the option for D&E when I find, through the use of ultrasound and other prenatal diagnostic procedures, that the patient is carrying a fetus with severe congenital or chromosomal anomalies. These abnormalities would leave the fetus with severe structural or intellectual deficits, often being incompatible with life after birth. Since these diagnoses cannot be made until after the first trimester of gestation, the patients who have chosen to end their pregnancy require termination either by D&E or by induction of premature labor. The latter procedure requires agents to soften the cervix of the womb and then use of additional medication to cause uterine contractions which expel the fetus.

There are only two physicians of whom I am aware in the Chicago area who perform D&E on patients beyond 20 weeks gestation. I do not know if they at times use the technique of D&E referred to as ''Partial Birth Abortion.'' Most often D&E results in destruction of the fetus; however, one physician to whom I send patients is adept at surgically removing a fetus of late gestation (24 weeks or less) either intact or with only minimal distortion. This has great benefit for the patient because we are able to perform an autopsy on the fetus and confirm any of the suspected abnormalities for which the patient was referred. This information might have an influence on the patient's future childbearing since genetic patterns of inheritance may be identified. It also may provide the mother with an opportunity to see and hold this fetus if she wishes. This brief contact may help her with mourning and ease the burden of losing a pregnancy.

You have asked if I ''share the sense of those who support the bill that this procedure should not be allowed under any circumstance?'' I read the bill and found the definition of a ''Partial Birth Abortion'' contained within it extremely vague. Since this is not a medical term with which I am familiar and the description in the legislation lacks exactness, I cannot give you an answer.

I have another sense of the issue from reading accounts of the procedure in the press and understand that the term has been used to describe a D&E whereby the cervix is partially dilated and extraction of a fetus is performed by pulling down on the legs until the fetal head is just above the open cervix. Since the fetal head is larger that its chest, it does not pass through. An instrument is then used to compress the fetal head so that it can then be delivered without further opening of the cervix. It is unlikely that manipulation of the fetal skull takes place on a fetus that is alive since the umbilical cord which is attached to the fetal abdomen below the cervix and the placenta above has been compressed between the tight cervix and the fetal head resulting in fetal death prior to head decompression. It is true that this entire procedure results in fetal death, but how does this method differ from any of the other techniques of abortion? If abortion is allowed, this technique should not be singled out as being any different than any other technique that achieves the same end.

In fact, D&E may be more desirable as an abortion procedure in that it takes only about 30 minutes to perform; less time to accomplish than the 9 to 12 hours required for induction of labor. This is an advantage to the mother since there is less chance for blood loss and infection. In the past, the Center for Disease Control in Atlanta, Georgia found D&E to be the safest technique for abortion after the first trimester. With particular reference to a D&E where compression of the fetal head is performed, one can hypothesize that there is less trauma to the mother's cervix from further opening which would be required to deliver the fetal head without decompression. Greater trauma to the cervix has been implicated as a cause of an ''incompetent cervix'' which results in repeated pregnancy loss. I mentioned above the advantages of retrieving an intact specimen for pathologic diagnosis and also in some cases the possibility of helping the mother with the process of mourning.

I feel very strongly that the federal government should not have a say in the type of medical procedures performed by a physician. The advantages of one treatment plan, either medical or surgical, must be left to the process of peer review. It is only by this method that those procedures which have the greatest benefit and carry the least risk to the patient can be identified. Medicine is a discipline founded upon scientific principles and these principles would be superseded if government intervened.

I feel equally as strong about Congress imposing criminal and additional civil penalties upon doctors because of a certain procedure that he or she performs. If the goal of the procedure is to accomplish an end that is within the law, how can Congress possibly call one procedure legal and another illegal? The value of the procedure must be determined by the medical community who can best judge its merit by its risk and benefit to the patient. If the procedure endangers the patient, the medical community, through

the process of peer review, will prohibit that procedure from being performed. Physicians who perform procedures outside of the standard of care can and do face civil and, even at times, criminal penalties; but, the issue does not have to do with the procedure they perform, it concerns the adherence to the standard of care.

I hope my response has been of help. As I have indicated, the term ''Partial Birth Abortion'' is not a medical term with which I am familiar. If abortion is legal, I favor the technique that will accomplish the goal with the least risk and the greatest benefit to the mother. I feel strongly that the federal government cannot decide the scientific merit of one medical procedure over another and, therefore, should not have jurisdiction over which medical procedures should or should not be performed. Congress certainly should not impose civil or criminal penalties on a physician for performing one or another procedure.

I am most grateful to have the opportunity to respond to this issue.

Cordially,

LAURENCE I. BURD, MD
Associate Professor, Clinical Obstetrics & Gynecology.

THE UNIVERSITY OF ILLINOIS AT CHICAGO, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY (M/C 808) COLLEGE OF MEDICINE,
Chicago, IL, November 20, 1995.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR MR. SIMON: I regret to have been unable to answer your recent letter sooner but I was away and only today on my return in the office, I found your letter.

I am still responding to your request just in case in view of a budget impasse, the hearings of your committee have been held as yet. Thus, I hope that this letter may be helpful to you and your committee.

As to the issues raised in your letter regarding ''Partial Birth Abortion, yes I am familiar with the procedure. Such procedures are used very rarely and its proposed prohibition is a thinly disguised assault on the women's reproductive freedom and the physician's freedom in his or her profession. Such a proposed legislation would be injurious to women's health.

I vividly recall a patient many years ago who presented herself to the labor room in premature labor, infected, sick with high fever, and with her premature fetus partially expelled in the vagina through an incompletely dilated cervix. After administration of antibiotics, the baby had to be delivered as rapidly as possible of this clearly now viable fetus. Thus, a head decompression measure such as the one described in the partial-birth abortion bill was used. In addition, the baby turned out to be hydrocephalic. If the proposed legislation was in effect, not allowing this procedure under any circumstances, the woman would have had to be exposed to a Cesarean Section for a non-viable fetus. The invasive operative objective abdominal delivery would have increased significantly for risk of spreading infection, affecting her future fertility and perhaps compromising her life. The democratic system of this Country expressed through our federal government in its three branches, has permitted the realization of a society that, if certainly not perfect, is clearly admired by most nations in the World. However, it is clearly inappropriate and dangerous for the federal government to try to regulate the practice of medicine. Professionals must be permitted to use their judgment on what is best in the care of the individual patients rather than fitting everyone in a procrustean bed made in Washington! Imposing criminal and civil penalties on doctors performing a medical procedure would have clearly a chilling effect on the performance of any procedure, even when ''the physician reasonably believed that the procedure was necessary to save the life of the mother and no other procedure would suffice.'' The law would clearly expose the physician's judgment to second guessing by others whose opinions may be colored by ethical standards not universally shared. This legislative approach has no place in a pluralistic society such as ours and it may result in health damage to many women among our citizens.

Again, I apologize for the lateness in my response and hope that this letter is useful for you and the committee in which you serve.

Sincerely yours,

ANTONIO SCOMMEGNA, MD.

COOK COUNTY HOSPITAL, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY
Chicago, IL, November 21, 1995.

Hon. SENATOR PAUL SIMON,
Dirksen Building,
Washington, DC.

DEAR SENATOR SIMON: Thank you very much for asking me to comment on H.R. 1833, the bill which address vaginal delivery of late abortions. I am sorry that I was out of the office last week and could not answer your letter in an appropriate time and hope that this will not deter you from asking my thoughts on future issues.

To answer your specific questions:

1. Yes, as you can see I am familiar with the procedure. The issue of the vaginal extraction of late second trimester abortions is an important one, and an issue that cannot, because of its social, religious, and philosophical implications be considered solely on the basis of its medical justification. If we were to only judge the procedure on its medical merits and compared it to other methods of late second trimester abortion, it would be judged the safest method for the mother when carried out by an experienced operator. It is not however, an esthetically ''clean'' procedure, and not one that a caring physician would do except in the most demanding medically indicated situation. I do not agree with those who supported this bill that the procedure should not be allowed under any circumstance.

2. How do I feel about the federal government having a say in what medical procedure can and cannot be preformed? I feel that they should not dictate medical care and should not intervene between a person seeking medical care and the practitioner prescribing that care. Intervention of this type, in which a particular procedure is chosen to solve a medical problem, can only escalate to other procedures and situations that others find morally or religiously objectionable. There are many in this country who find male circumcision reprehensible, should we ban those also?

3. My thoughts on imposing criminal and additional civil penalties on doctors performing a medical procedure? Doctors performing procedures that are medically indicated, carried out without complication, and to the satisfaction of the patient and or their families, should not be subjected to criminal or civil penalties. The tort system, although decidedly not perfect, imposes strict penalties on physicians performing legal procedures in less than a satisfactory manner.

Senator Simon, you can see that I do feel strongly about government intervention between patient and physician. It simply should not occur. Thank you again for asking for my opinions and thoughts regarding H.R. 1833.

Sincerely yours,

DONALD M. SHERLINE, M.D.,
Chairman.

Mr. SIMON. Let me read just a few paragraphs from some of the letters. Dr. Arthur Herbst, who is the chairman of the department at the University of Chicago:

I am strongly opposed and extremely concerned about the Federal Government deciding the acceptability of medical procedures in practice. These should be decided based on medical information and not by a legislative process. It appears ironic to me that the current emphasis in Washington is to reduce the Federal Government's involvement in our lives. The proposed legislation goes alarmingly in the opposite direction.

The chair of the department of obstetrics and gynecology at Washington University in St. Louis, just across the border from Illinois, Dr. James R. Schreiber:

In answer to your second question, I have great worries about the federal government having a say on what medical procedures can and cannot be performed. This procedure is an excellent example of why I think the federal government would have problems directing the care of individual patients. There are so many possibilities concerning threats to the woman's life . . .

My greatest problem with this legislation is that we could so frighten physicians that the best procedure for the pregnant woman would be precluded by the legislation.

The vice president for medical affairs of the Rockford Health System, which is affiliated with the University of Illinois Medical School, writes:

You did raise the question about how I feel about the federal government having a say in what medical procedures can and cannot be performed. I, as my colleagues do, feel quite strongly that the role of the government should not stray into the medical arena regarding what is appropriate or nonappropriate therapy. As you know, all of the ramifications from legislating at this level simply cannot be understood or realized prior to the event and the results may be completely different from those intended.

. . . I feel that Congress imposing criminal and civil penalties upon physicians performing medical procedures borders on the ridiculous. If Congress begins to legislate at this level, where can it possibly end?

Dr. David Cromer, of Evanston Hospital, which is affiliated with Northwestern University's Medical School, writes:

The basic question is, does the federal government have a place in deciding what medical procedures should or should not be performed. I feel strongly not. This is a medical decision.

Similarly, Congress has no business imposing penalties on physicians for performing a certain procedure.

The head of the department of obstetrics and gynecology at Michael Reese Hospital, which is affiliated with the University of Illinois College of Medicine, writes:

You have asked if I ''share the sense of those who support the bill that this procedure should not be allowed under any circumstance?'' I read the bill and found the definition of a ''Partial Birth Abortion'' contained within it extremely vague. Since this is not a medical term with which I am familiar and the description in the legislation lacks exactness, I cannot give you an answer.

. . . I feel very strongly that the federal government should not have a say in the

type of medical procedures performed by a physician.

. . . I feel equally as strong about Congress imposing criminal and additional civil penalties upon doctors because of a certain procedure that he or she performs.

Dr. Antonio Scommegna heads the department of obstetrics and gynecology at the University of Illinois at Chicago:

As to the issues raised in your letter regarding Partial Birth Abortion, yes I am familiar with the procedure. Such procedures are used very rarely and its proposed prohibition is a thinly disguised assault on the women's reproductive freedom and the physician's freedom in his or her profession. Such a proposed legislation would be injurious to women's health.

And a very similar letter from Dr. Donald M. Sherline, who heads that department at Cook County Hospital, which is a huge hospital in Chicago.

I think, Mr. President, that what we have here is something that is well-intended. I do not question the motivation of my colleague from New Hampshire. I would ask every Member of this body to read the testimony of these two women who testified before the Judiciary Committee. Anyone who reads that testimony and believes we should deny these women their right to safe health and put the physicians who give them their health and save their lives, put them in prison for 2 years, I think you have a hard heart indeed. At least I do not have the courage to say to those families, ''We're not going to let you protect yourselves.''

I think this is an example of the Federal Government running amok. If this passes—and I know politically maybe it is going to pass tomorrow—I trust that the President of the United States has the courage to veto this legislation and that we will protect the families of America from this political interference.

Mr. HATCH. Mr. President, I rise to address one aspect of the debate over the partial-birth abortion bill: the argument that the bill is unconstitutional.

Opponents of this bill raise arguments challenging its constitutionality that, I believe, reflect a fundamental misunderstanding of constitutional principles and of the Supreme Court's abortion jurisprudence. This is not only my view, but the view of numerous respected constitutional scholars at our Nation's finest law schools, such as, just to name a few, Michael McConnell, the Graham professor of law at the University of Chicago, and Douglas Kmiec of the Notre Dame Law School, and of other authorities on constitutional law, such as William Barr, former Attorney General of the United States. I believe that H.R. 1833 is constitutional.

Because of the timing in the birth process in which these abortions occur, these fetuses may actually qualify as persons under the Constitution. As such, they are entitled to all of the protections of the law that all other American citizens receive under the Bill of Rights, particularly the 5th and the 14th amendments to the Constitution.

This bill only applies to fetuses which are partially delivered. As such these partially born fetuses do not fall under the framework of Roe versus Wade and Planned Parenthood versus Casey, which apply only to the unborn.

Although State laws on homicide and infanticide generally protect only fully born children, at least 36 States allow recovery under wrongful death statutes for postviability prenatal injuries that cause stillbirth, and another one-third of the States consider killing an unborn child, other than through an abortion, as some form of homicide.

Given these statutes, some States logically have promulgated laws that protect children in the process of being born, such as Texas and California. In light of this existing law, as Professor Kmiec, a former Assistant Attorney General for the Office of Legal Counsel, testified before the Judiciary Committee, it is entirely appropriate for Congress to pass a statute protecting such partially born children to clarify their status under the Constitution.

Opponents of this bill would have us believe that 3 inches and 3 seconds can make all the difference. In other words, they would have us believe that a living infant, capable of life outside the mother's womb, and actually in the process of birth, is not a person, entitled to the full panoply of constitutional protections and rights, because it is 3 inches and 3 seconds from birth. Would the Constitution fail to protect a fetus 2 inches and 2 seconds from life? One second and one inch?

Even if one believes that these children qualify as unborn, the Supreme Court's jurisprudence on abortion, principally articulated in Planned Parenthood versus Casey, fully permits Congress to pass this ban on partial-birth abortion. In Casey, the Court, speaking through a three-Justice plurality, Justices O'Connor, Kennedy, and Souter, tossed out Roe versus Wade's trimester framework and articulated three principles to guide courts in abortion cases. First, the woman has a right to terminate her pregnancy before fetal viability.—*Casey*, 112 S.Ct. at 2804.

Second, the interest of the State in promoting prenatal life permits the State to regulate, and even prohibit, abortions after fetal viability, subject to exceptions for the life or health of the mother.

Third, the State has legitimate interests throughout pregnancy in protecting the health of the mother and the life of the fetus.

Under this framework, this bill is constitutional because it only prohibits the abortion of living, viable fetuses, and only by one abortion procedure.

The medical testimony we heard in the Judiciary Committee indicated that about two-thirds of the fetuses aborted in this manner are alive, and that this procedure is generally used largely, if not exclusively, during the period of viability.

Further, H.R. 1833 is limited only to abortions in which a living fetus is partially delivered and then killed. The Casey right to a an abortion before viability is not implicated in this bill, because the bill exempts the abortion of nonviable fetuses and applies only to abortions after viability.

Opponents of the bill reduce our great Constitution to trivialities if they argue that the Constitution guarantees a right to a specific abortion procedure.

Nor does this bill somehow impose an undue burden upon the right to abortion, the test adopted by the three-Justice plurality which, I might add, is not the law of the Supreme Court until it receives a majority.

As Prof. Michael McConnell has written in a November 29, 1995, letter to the Judiciary Committee:

Since this bill would ban only one method of abortion—one that, according to testimony by medical experts, is quite rare—it seems evident that it meets this standard. It can hardly be an ''undue burden'' to require abortionists to conform to standard and accepted medical practice.

Although the undue burden standard is rather unclear, it is still difficult, if not illogical, to conclude that prohibiting one method of abortion, infrequently used, will interpose a ''substantial obstacle in the path of a woman seeking an abortion.''—112 S.Ct. at 2820.

Women seeking abortions previability still may resort to D&C and D&E procedures, which account for most abortions in this country. And, of course, women will have available the other methods of postviability abortion, which our hearings have shown are safer and more widely used.

The Justice Department and the bill's opponents have espoused two main criticisms of the bill.

First, they claim that the bill must have an explicit exception for abortions performed to preserve the health of the mother, which it currently does not have.

Second, they claim that the bill's provision for an exception for the life of the mother is unconstitutional because it is structured only as an affirmative defense.

Both arguments are, in the words of former Attorney General William Barr, meritless.

I will respond to them in turn, but let me note that legal experts of the highest reputation and credentials find these objections to be unconvincing and unsuccessful.

Let me take up the fist argument. In Casey, the Court rejected the trimester framework in favor of a bifurcated approach based on fetal viability, while reaffirming the core holding of Roe.

According to the Supreme Court, after the fetus becomes viable, the Government can prohibit abortion except in cases where the life or health of the mother is threatened.

This bill does not threaten a woman's right to have an abortion, nor does it threaten a woman's life or safety, because it leaves open alternative methods of abortion both before and after viability—methods which the top experts in the field have testified are safer than Dr. Haskell's method.

By banning this rogue method, we actually enhance the woman's safety, not injure it.

I think it is worth quoting the experts on this point, due to the great weight that opponents of this bill have placed on this weak argument.

As Professor Kmiec testified before the Judiciary Committee:

> The bill by its focussed, targeted structure implicitly provides for the health of the mother by not banning all abortion procedures at this later stage of the pregnancy, but only the one seen as patently and inhumanely offensive.

As Professor McConnell of Chicago concludes:

> In light of authoritative medical testimony that partial birth abortions are not necessary for preservation of the mother's health, the bill could not be invalidated on that ground.

According to Former Attorney General Barr:

> Congress could reasonably conclude from the record that the partial-birth abortion procedure is not safer for a mother's health than other available—and well-established—alternatives. It would therefore be pointless to include a health exception in H.R. 1833 because this exception could not be legitimately invoked.

It seems clear that a written exception for the health of the mother need be included only if Congress attempted to ban all postviability abortions, not just this single, rare, offensive method of killing partially born children.

The Supreme Court has recognized many legitimate interests that may justify abortion statutes such as the one before the Senate:

First, safeguarding health, maintaining medical standards, and in protecting potential life;

Second, protecting immature minors, promoting general health, promoting family integrity, and encouraging childbirth over abortion;

Third, protecting human life, protecting the dignity of human life, preventing both moral and legal confusion over the role of physicians in our society, and

Fourth, preventing cruel and inhumane treatment.

Clearly, this bill furthers these interests—recognized as constitutional by the Supreme Court.

The Clinton administration argues that this bill would force an increased medical risk on women, and hence would violate the Constitution.

The administration relies upon two cases, Thornburg versus American College of Obstetricians and Gynecologists, and Planned Parenthood versus Danforth, for the proposition that any State regulation of abortion that might increase the medical risk to the woman is unconstitutional.

First, the factual basis for this argument is absent because there is no evidence that partial-birth abortions are ever necessary to preserve the life or health of the mother.

In fact, the evidence presented before the Senate Judiciary Committee and before the House Judiciary Committee demonstrated that this procedure is often more dangerous to the life or health of the mother than the other procedures used for late-term abortions.

Second, it is unclear whether Thornburgh and Danforth are any longer good law. Casey overruled much of the holdings of these cases, and scholarly commentary—not to mention pro-abortion activists—initially attacked Casey for overruling several such abortion cases.

Indeed, the very trimester framework employed by Thornburgh and Danforth was clearly overruled by Casey.

Third, the statutes in Thornburgh and Danforth were clearly and utterly different from the bill before us. The State law in Thornburgh required that a second physician be present during a postviability abortion and that a physician performing a postviability abortion had to attempt to preserve the life and health of the unborn child.

This bill does not place such an obligation upon the physician. Indeed, the physician is free to use any other abortion procedure he or she sees fit to protect the life and health of the mother, aside from the partial-birth method.

Indeed, should the life of the mother be threatened, this bill even permits the physician to employ partial-birth procedures.

In Danforth, the state law outlawed the safest and most common abortion procedure for first trimester abortions. The Court struck down that statute because it constituted a barely veiled attempt to outlaw first-trimester abortions entirely.

Here, there is nothing of the sort. In fact, the bill permits the continued use of the more popular, and safe, methods of late-term abortions.

Turning to the second main criticism, the administration and other opponents claim that the bill is unconstitutional because it permits a doctor to justify a partial-birth abortion only as an affirmative defense to a prosecution.

The fact that the bill provides the exception required by the caselaw in an affirmative defense does not unduly burden the right to an abortion.

As I noted when I spoke about this bill last month, many of our constitutional rights arise only as an affirmative defense. Many of the protections of the Bill of Rights sometimes can only be raised as a defense to a prosecution.

To claim that the right to an abortion is not protected by an affirmative defense demeans the explicit protections of the Bill of Rights; and it raises abortion above any other right in the Constitution.

Again, top legal experts I have consulted agree that there is nothing unusual in having one's personal rights evaluated by means of an affirmative defense.

As Professor Kmiec testified before the Judiciary Committee, the Supreme Court has approved the common practice of States to place upon criminal defendants the burden of proving affirmative defenses, such as insanity or killing in self-defense.

In fact, as both Professor Kmiec and former Attorney General Barr note, it makes sense for this burden to fall upon the doctor, for it is the doctor who is uniquely well-positioned to establish that he or she reasonably believed both that the abortion was necessary to save the mother's life and that no other procedure would suffice.

Let me address two other minor arguments that have arisen.

First, there are those who argue that Congress lacks power under the interstate commerce clause to regulate the practice of abortion.

It is incredible to me that those who were in favor of the Freedom of Choice Act and the Access to Clinics Act would raise such an argument. Nonetheless, I will give it the swift dismissal that it deserves.

Whatever one might think about the expansion of Federal power under the commerce clause, whether H.R. 1833 falls within this power ''poses an easy case under current interpretation,'' as Professor McConnell puts it.

We can all agree that the provision of medical services are commercial activities and that abortions are medical services. Even after the decision last Term in Lopez, the Court has been fairly clear that Congress may regulate all commercial activities, because they frequently involve an interstate market.

If Congress can regulate health care, which it does today in myriad different ways, it can regulate abortions. And, if this bill is unconstitutional, then a whole host of other laws, starting with the Access to Clinics Act, are unconstitutional as well.

Second, some argue that this bill will unfairly punish nonphysicians, even though only those performing the partial-birth abortion are subject to its criminal penalties. They claim that Federal aiding-and-abetting laws or misprison laws will hold liable nurses, anesthesiologists, or even rape counselors.

This argument does not even qualify as makeweight. For example, to be guilty of a misprison of felony, one must not just fail to report a crime; one must actually engage in an affirmative, overt act of concealment of a felony.

As Professor Kmiec concludes, ''Logic, prosecutorial discretion under the policies of the Department of Justice, and the strict scienter element necessary to prove beyond a reasonable doubt the underlying offense, all suggest that any possible criminal liability . . . under freestanding conspiracy,

misprison, or aiding and abetting statutes is highly speculative, if not farfetched.'' One cannot help but agree with him.

The weight of both evidence and logic lead us to the conclusion that constitutional objections to this legislation are mere red herrings designed to throw the debate off of the real issue—whether or not this horrible procedure is justified.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise today in strong support of H.R. 1833, the partial-birth abortion ban bill. Mr. President, as you and the Members of the Senate know, on November 8, after 2 days of very spirited debate, this Senate voted to commit this bill to the Judiciary Committee for hearings. There were a number of concerns that had been raised on the Senate floor. A number of these concerns, quite frankly, were addressed during the Judiciary Committee hearing that I attended. So I would like for a moment to take the Members of the Senate back to the debate that we had on the Senate floor in regard to several of the points that were made by the opponents of this bill and see how the points that were made on that date, November 8, were, in fact, answered by the testimony that our Judiciary Committee, under Chairman HATCH, heard, the testimony that we heard at that committee, how it relates to the arguments made by the opponents.

Let me start, Mr. President, with Brenda Shafer. Brenda Shafer, as my colleagues will recall, is the nurse from the Dayton area who has described in great detail exactly what this procedure consists of. My colleague, Senator SMITH, has in great detail described that as well.

While we were debating this issue on the Senate floor the last time it was up, on November 8, Brenda Shafer's credibility was attacked, was attacked by the opponents of this bill. Let me say, Mr. President, after having watched Brenda Shafer testify, I do not believe anyone could have watched her testimony, could have listened to her testimony, could have observed her demeanor, and not come away with the conclusion that she was not only telling the truth, but that what she saw was etched and will be etched in her memory for the rest of her life.

Like some other Members of this body, Mr. President, I have been involved as an attorney in lawsuits. I was a county prosecutor for 4 years, assistant for 2½ years prior to that. I have seen hundreds, probably thousands, of witnesses on the stand. I cannot recall a more compelling witness than Brenda Shafer. If anyone doubts that, I would invite them to go back—do not just read the transcript that is available, but go back and get a video tape from C-SPAN of her testimony.

Let me take a couple points where nurse Shafer was attacked on this floor and talk about how those particular attacks were rebutted by her testimony. Nurse Shafer said that the partial-birth abortion procedure was performed past the 24th week of pregnancy. She was attacked on the Senate floor for saying that.

One Senator quoted from a letter from a supervising nurse at the clinic where Brenda Shafer worked to the effect that ''Dr. Haskell does not perform abortions past 24 weeks of pregnancy.'' This is a document entitled ''Second Trimester Abortion: From Every Angle, Fall Risk Management Seminar, September 13–14, 1992, Dallas, Texas.''

On page 27 of this transcript, there was a paper delivered by Dr. Martin Haskell, ''Dilation and Extraction for Late Second Trimester Abortion, presented at the National Abortion Federation Risk Management Seminar, September 13, 1992.''

On page 28 of this document—this is Dr. Haskell's own words—this is what he said, the author—now remember this is the same person that Brenda Shafer observed performing the abortion. ''The author,'' Dr. Haskell, referring to himself, ''performs the procedure on selected patients 25 through 26 weeks LMP.''

So Dr. Haskell, in his own writing, confirms what nurse Shafer said.

Let me turn to another point. The nurse was attacked also for her comments about ultrasound. On this floor from the same letter, a Senator quoted, ''Dr. Haskell does not use ultrasound.'' Again, in Dr. Haskell's own report, this is what he says: ''The surgical assistant places an ultrasound probe on the patient's abdomen * * *.'' Again, Dr. Haskell's own comments.

In conclusion, I would simply say that again I would invite my colleagues to listen to her testimony. Her testimony is compelling. It is shocking. It is sickening. And it also is backed up by the doctor who performed that abortion, that is, Dr. Haskell, in his own words.

Let me turn to another issue that was raised on this floor in the last debate. Anesthesia. After the bill was introduced, bill opponents argued, without medical evidence, that the anesthesia that was administered to the mother killed the baby, so the baby felt no pain. That was the statement that was made. One U.S. Senator said the following. Let me read directly from the Congressional RECORD. ''The fetus dies during the first dose of anesthesia.'' That is from the CONGRESSIONAL RECORD. That was said on this floor.

Further, Dr. Mary Campbell of Planned Parenthood in a fact sheet said the following, in answer to a question, ''When does the fetus die?'' ''The fetus dies of an overdose of anesthesia given to the mother intravenously.''

Further, Kate Michelman of NARAL, at a NARAL news conference, November 7, 1995, here is what she said. ''There has been expert testimony by physicians who do this procedure stating that the anesthesia that is given to the pregnant women prior to the procedure causes fetal demise, the death of the fetus, prior to the procedure.''

Now, Mr. President, in spite of these three comments, in spite of the three assertions that were made on this floor, the facts are directly contrary to this.

This was brought out very clearly—very clearly—in the Judiciary Committee hearing. Again, I invite my colleagues to examine the record.

The confusion raised by these statements was so great in fact, Mr. President, that the American society came forward to set the record straight, a society of people who do this every day, who administer anesthesia.

Mr. Norwig Ellison, president of ASA, came forward and testified at the Judiciary Committee hearing. This is his written statement that was presented that day, and then he gave an oral statement where he stated it again. This is what he had to say:

> The widespread publicity given to this view may cause pregnant women to delay necessary and perhaps lifesaving medical procedures.

He further said:

> Pregnant women are routinely heavily sedated during the second and third trimester for the performance of a variety of necessary medical procedures with absolutely no adverse effect on the fetus, let alone death or brain death.

Also at the hearing, when confronted with this fact, Dr. Campbell, who I quoted earlier, changed her position. At the hearing, Senator SPENCE ABRAHAM from Michigan asked her about the position, referring to the fact sheet that the fetus dies of an overdose of anesthesia. Senator ABRAHAM said, ''This is no longer your position?''

Dr. Campbell replied: ''I believe that is true.''

In other words, she no longer holds the position that the fetus dies from anesthesia.

Further, Dr. Haskell, who performed this procedure on numerous occasions, himself had no doubts on this issue. The American Medical News asked Dr. Haskell the following question: ''Let's talk first about whether or not the fetus is dead beforehand.''

Dr. Haskell responded: ''No, no it's not. No, it's really not. A percentage are for various number of reasons and probably the other two-thirds are not.''

Again, one of the allegations that was made on this floor that the hearings clearly showed was wrong.

Some of the opponents of the bill would have the Members of this Senate and the American people believe that this debate is about whether we ban all abortions. It is sad that this bill is really not about partial-birth abortions, that what it really is is a covert assault on the decision in Roe versus Wade. This is totally false. Look at some of the people lining up behind this legislation: Congressman DAVE BONIOR, SUSAN MOLINARI, PATRICK KENNEDY, DICK GEPHARDT. These individuals are pro-choice. No one has questioned their pro-choice credentials.

They voted for this bill because they believe this is, in fact, a legitimate public policy issue.

Mr. President, this is a legitimate public policy issue. This procedure is especially cruel, it is unusual, it is inhumane, and it should be abolished.

It is perfectly possible and intellectually consistent and coherent to endorse this legislation and simultaneously support the Supreme Court decision in Roe versus Wade. This bill is not a ban on abortions. It is not even a restriction on when an abortion may be performed. Restrictions of that kind were actually envisioned by Roe versus Wade, based as it was on the differences of three trimesters of a pregnancy, but this bill does not do that.

Even so, even though Roe v. Wade allowed for that kind of restriction, this bill does not restrict the timeframe for a woman contemplating an abortion. All this bill does is abolish one particular procedure.

By now, we have all heard this procedure described in considerable detail. I hope that we can agree that this procedure is especially cruel, unusual, and inhumane. This debate is about a very, very, very limited number of abortions. It is a narrow, and should be narrowly structured, debate. To my friends on the other side who argue that we simply have to continue to allow this particular procedure to exist I simply say, is there not any limit to what we as a society will tolerate, what we as a society will accept? How close to an actual birth do we have to get in seconds, in inches, before we say, no?

Mr. President, the two witnesses who testified in front of our committee—my colleague from Illinois and my colleague from California have referenced them—gave some very heart-wrenching testimony. No one could have sat through that hearing without being moved, touched—really those terms are not adequate for how anyone would feel, certainly as I felt as I listened to the testimony.

I think, though, that what we need to remember is that neither of these two tragic situations would have been affected by the bill we are debating. H.R. 1833 covers only living fetuses, not fetuses that have died in the womb. In both the cases, in both the tragedies that were related by the witnesses, their babies had died prior to birth. Their babies had died in the womb. So this bill simply would not cover them.

We will continue to hear, I am sure, on this floor the argument made that we should look at these two heart-wrenching situations. I simply remind my colleagues, whether in the Chamber or back in their office listening to this debate, that we all agree these are just heart-wrenching situations. But we also should understand, and I ask my colleagues to keep in mind, that these two situations are simply not covered by this bill, and so it is really a bogus argument.

Mr. President, I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from California.

Mrs. BOXER. Thank you, Mr. President. The Senator from Ohio raises a very important question—and I am paraphrasing it and if I do not do it right, he will let me know—when he asked this rhetorical question: How close do you get to a birth before you just say no to abortion?

I think, clearly, that is a crucial question to be raised. That was the question raised in Roe versus Wade when, in 1973, the Supreme Court looked at the entire issue and tried to answer that question. What they basically said was that in the first 3 months of a woman's pregnancy, she is going to have the right to choose and she is going to make that decision with her God. Government is going to stay out of that decision. That is between her and her God. And as the pregnancy develops, the State has an interest. Clearly, States may regulate later in the pregnancy, and they do. But always under Roe versus Wade, the life and health of the mother is paramount.

When my friend from Ohio says the most compelling testimony was from a nurse, it shows his point of view here because I have heard back from members of that Judiciary Committee, even on the other side of the issue, who said they were riveted to Coreen Costello and to Viki Wilson. They were riveted to hear a story from a pro-life Republican about how she faced this and had to choose this procedure for her life and her health and because of her deep and abiding love, not only because she wanted to live on this planet but for her beautiful children.

So I guess, to me, what is more compelling than someone who served in the clinic for 3 days and comes away and talks about it—I ask unanimous consent to have printed in the RECORD at this time a letter from Nurse Shafer's supervisor, Christie Gallivan, an R.N.

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

THE WOMEN'S MED+CENTER,
Cincinnati, OH, July 17, 1995.

DEAR CONGRESSWOMAN SCHROEDER: I am a registered nurse and have worked since July, 1993, in the Dayton office of Dr. Martin Haskell. In this capacity, I was the nurse that supervised the training of Brenda Pratt during her brief temporary employment at the Women's Medical Center of Dayton. As you know, we initially conducted a search of our employment records under the name ''Brenda Shafer,'' as this was the name she signed to the letter which was given to us. When provided with the correct last name, we did in fact find the record of her three-day employment at our Dayton facility.

The information provided by Ms. Pratt as to our practices at the Women's Medical Center of Dayton is largely inaccurate. First, she describes Dr. Haskell performing one 25-week and one 26-week abortion procedure. Dr. Haskell does not perform abortions past 24 weeks of pregnancy. This is a self-imposed limit to which he has scrupulously adhered throughout the time I have worked for him.

Second, Dr. Haskell does not use ultrasound in the performance of second-trimester procedures. We use ultrasound only to determine the pregnancy's gestation. Therefore, her entire description of her experience when viewing a second-trimester abortion, which includes Dr. Haskell's using the ultrasound while doing the procedure, is clearly questionable.

Finally, at no point during a dilatation and extraction or intact D&E is there any fetal movement or response that would indicate awareness, pain or struggle. Ms. Pratt absolutely could not have witnessed fetal movement as she describes. We do not train temporary nurses in second trimester dilatation and extraction, since it is a highly technical procedure and would not be performed by someone in a temporary capacity. If, indeed, Ms. Pratt entered the operating room at any point during a D&X procedure, she clearly either is misrepresenting what she saw or remembers it incorrectly.

If you have any further questions, please feel free to contact our office.

Sincerely,

CHRISTIE GALLIVAN, RN.

Mrs. BOXER. In this letter, Nurse Gallivan says:

We do not train temporary nurses in second trimester dilatation and extraction, since it is a highly technical procedure and would not be performed by someone in a temporary capacity. If, indeed, Ms. Pratt entered the operating room at any point . . . she clearly either is misrepresenting what she saw or remembers it incorrectly.

Since we are talking about compelling testimony from a nurse, I think it is very compelling that the American Nurses Association has written as follows:

I am writing to express the opposition of the American Nurses Association to H.R. 1833 . . . which is scheduled to be considered by the Senate this week. The legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

In the view of the American Nurses Association 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.

They go on to say:

This legislation would impose a significant barrier to these principles.

. . . The American Nurses Association is the only full-time professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations.

They respectfully urge us to vote against this bill. I ask unanimous consent that this letter be printed in the RECORD.

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

AMERICAN NURSES ASSOCIATION,
Washington, DC, November 8, 1995.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: 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.

GERI MARULLO, MSN, RN,
Executive Director.

Mrs. BOXER. When we look at people who nurture, who bring their love into medicine, who bring their compassion into medicine, who have been known to place themselves at risk in the work that they do to save lives, I think it is very important to note that the American Nurses Association strongly opposes this bill.

We know that Viki Wilson, whose testimony was read so eloquently by Senator SIMON, is a pediatric nurse, and she found herself in this circumstance. So if we want to talk about compelling testimony, I guess there was a lot of compelling testimony.

The reason I am keeping this family portrait up here is because I want to keep this family's face right up here. Because with all the talk about medicine and all the charts of drawings of medical procedures, as if we were a medical school here, this has been forgotten. I will not allow these families to be forgotten in this debate. This mother, this wife, this husband and father, and these children, who could have lost this extraordinary woman, who happens to be a pro-life Republican, and who, by the way, wrote in her Op-Ed to the New York Times—that is why I was grateful that we had the hearing, because more attention was paid to this. She said, ''Those who want Congress to ban the 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 am a Republican that always believed that abortion was wrong. Then I had one.'' Then she goes into the pain of this late-term abortion, which was her only option. So, yes, I am leaving her face up here through this debate.

For those people who do not support a woman's right to choose, who say that this bill is consistent with Roe versus Wade, I remind you that Roe is very clear. Always the life and health of the woman is paramount—always, even when a State can in fact regulate abortion, which Roe says they can do under certain circumstances. There is a State interest. The woman's life and her health must always be protected, always be protected. Yes, we had physicians who said this procedure is not necessary to do, but we had others who said, clearly, that it is quite necessary.

As a matter of fact, Coreen Costello, age 31, pregnant now with her third child, her doctor said a cesarean section or induction of labor could well have cost her life.

Well, Mr. President, we are going to have a long time more to debate this. I am not going to go on too long this evening. My friend has been patient and has a lot more to say.

There is no such thing as a partial-birth abortion. There is no such terminology. There is no such thing. There is such a thing as a late-term abortion, and it is always tragic and always undertaken because it is an emergency procedure. The life of mothers like Coreen may well be at stake, or serious adverse health consequences may arise from severe fetal abnormalities, such as organs growing outside the body. These late-term abortions are not births or partial births. They are the most tragic emergency medical procedures.

So I ask again, why is the Senate taking this up—a ban on a particular procedure used in these tragic operations? Is it because nobody is regulating these abortions? No. I explained that in Roe versus Wade clearly the State has the right to, and States do, regulate late-term abortions. Is it because there is a surge in late-term abortions? No. That is not the case.

My colleagues will say that they are doing this because this is a terrible procedure. They throw away the arguments by physicians who say it is a necessary life-saving procedure and only quote those doctors who say it is not. I thought you people were conservative. You should take the conservative position. If even a handful of doctors think a woman is more likely to die—14 times more likely if she undergoes cesarean section—then take the conservative approach and give the physician every tool he or she can have, so that it can be a safe emergency procedure, so women like Coreen Costello and Viki Wilson, and the others we will talk about in debate later, will live.

Well, I think I know what the real agenda is. I do not think it is a surprise. It is not going to shatter anybody's mind when I say this. I think there is a group of Senators who want to make abortion illegal in this country. They ran on that platform. They are committed to doing it. They feel a woman should not have a right to choose.

If it was up to them, they would criminalize this procedure. They would put the woman in jail. They would put the doctor in jail. They do not have the votes, folks. They do not have the votes to outlaw abortion. They wish they did.

Now, with this Republican Congress they have more votes than they have ever had before, and I hope people in this country understand that. But they still do not have the votes to outlaw abortion straight out.

Just like those who came here to destroy environmental protection, they do not have the votes to outlaw the Clean Air Act or the Clean Water Act. So what do you do? Cut the Environmental Protection Agency by a third; cut enforcement by two-thirds. This way you do not have to go just right at it and repeal the laws.

The same thing here, but another issue. They do not have the votes to outlaw abortion. The Supreme Court, much to their dismay, upheld Roe. They have said abortion is a constitutional right. So these Senators are trying to outlaw abortion not directly but indirectly and they will take every chance to do it. That is what this is about.

Already, we have seen an erosion of a woman's right to choose. No abortion in military hospitals. Imagine, it is your daughter, she is stationed in Saudi Arabia, she cannot go to a military hospital. God knows where she will go.

As Senator SIMPSON said, and I read every word he said, when abortion was illegal in this country, women obtained abortion. A woman risked her freedom to try and get an abortion. Doctors did the same.

I lived through those days. Women died. They died in back alleys. They lost their fertility. We are not going back to those days. But there are those in the Senate who want to take us back. That is what this is about.

They may say it is nothing, you could be pro-choice and support this. That is fine. They can say it. But if you read behind the lines, you know that is the plan. That is the plan of the far right in this country. Take the victories where you get them. Force the President to sign the defense bill. Ipso facto outlaw abortion in military hospitals.

Now, if you are a Federal employee and happen to be a woman, you cannot use your own insurance for which you pay a good portion of the premium, you cannot use it to get an abortion. OK, that is gone.

How about this: one of the reasons the Health and Human Services bill has not been brought up here is there are those in this Senate who want to stop training ob-gyn's to perform abortion. Folks, listen: It does not say stop training them in this procedure. It says stop training medical students so that no one will know how to do a safe and legal abortion in this country.

I stood here on this floor and I objected to bringing that bill forward because I knew that would be offered.

How does that help a woman in this country, when she has to go back to the back alleys, and the men in this Chamber stand up and talk about the joy of giving birth?

I had the joy. Do not lecture me about that. And do not tell my children and my grandchildren that you know better for them than their God and their daughter and their husbands and their wives. Do not do that.

That is not what this Republican revolution was supposed to be about; if anything, it was supposed to be about getting Government out of our lives. Now they are putting it in the hospital room, in the medical school.

We said when this came up, we should have a hearing. We want to put a woman's face on it. We see these drawings. Time after time, day after day—where is the face of the mother? Where is the face of her husband? Where is the face of her children?

No, we did not see that face, but we got that face. We had the time to get that face into those hearings. I am so glad colleagues stuck with us on that one. It was going to be a close vote.

Yes, I hope our colleagues will read the testimony—all sides—and they will find that the medical community is split. The lawyers are split. We already know the Nurses Association is strongly against this bill. Yes, we had one nurse who is for it who worked 3 days as a temporary employee. That is if we believe the veracity of her testimony. Yes, we have some doctors who say the procedure is not necessary. But the obgyn organization says this bill is bad.

But no one can dispute Coreen Costello or Viki Wilson or John and Kim Leonetti, who I will talk about later in this debate, or the many others who had the courage to come forward and tell their story. They are religious women. They are God-loving mothers. No one on the other side of this would dare stand up and say what they said was not accurate. They lived it.

That is what this is about. This is what is going to happen if this bill passes and it is signed into law without exception. People like this do not have a chance.

We have a lot of work to do, as I said, in this Senate. We have a lot of appropriations bills we have to pass. We have to have a pass on Bosnia. We cannot even agree on a budget, can barely agree on the size of the table that we are going to sit around. We have work to do.

I say people sent us here to fight about those priorities. I want that debate. I want to know how Medicare survives after you cut $270 billion out of it. I want to know how Medicaid survives when you cut $182 billion out of it. I want to know how senior citizens are better off when you repeal nursing home standards and go back.

You want to talk about compelling? Why do you not read what it was like in the 1980's before we had nursing home standards from the Federal Government. It was pretty compelling. Grandmothers and grandfathers were sexually abused, mistreated, scalded in the bathtub.

We have a lot of work to do. We should not get into what medical procedure is appropriate and what medical procedure is not.

I will say this to my colleagues. If this bill becomes law as it is now written—I believe the chances of that are nil; there is not even an exception for life or health of the mother, but say it did—and someone's wife dies, someone in this Nation loses a wife and a loving partner because of the action of this body, I tell that person, even though their case could get kicked out of court, I would tell them to sue the pants off every U.S. Senator in this place who voted to outlaw a life-saving procedure. I would make that case that we have no business getting in the middle of a tragic family decision, playing God, playing doctor without the foggiest notion about what it means to make that tragic choice.

We talk about the joy of birth. God has blessed those people who have never known such a tragedy as these families have known. You are blessed that you never knew such a tragedy. But do not stand up here and say in every single case it is all beautiful. How you can even say that, in light of this testimony, is beyond belief.

One of the reasons we were so strong on having this testimony is because of what we heard here on this floor about how every birth is joyful, and there are no problems, and you do not need this procedure. I would have hoped we put that to rest, but it is back here again on the floor, calling doctors names, vicious names, because they helped a family like this. I say to you, if that doctor did not help this woman, that doctor would be violating the Hippocratic Oath.

So, I just hope we amend this bill. Abortion is a legal right in this country. If you want to take it on, if you want to have a bill introduced to make it illegal, to put women in jail, go ahead. Let us have that debate. But I really feel to set ourselves up as a special committee, like one of a hospital that delivers babies, to stand around here and talk about what procedure should be done and what should not be done, I just think we are off the mark as to what our responsibility is here.

This is going to be a very difficult debate. This is just a preview of it. I know my colleagues and I disagree. We try very hard not to be disagreeable with one another. I certainly do not feel disagreeable to my colleagues who take the other view.

I do feel, however, that they are looking at this in a way that ignores women like this, men like this, kids like this, families like this. So I will be bringing us back to these families, these circumstances.

When you legislate, you do not legislate for the majority of people. That is easy. Most times you do not even need to think about this subject.

Of course, we cannot close our eyes and say it is a beautiful, beautiful process, this process of birth. Nothing ever goes wrong, so therefore we are going to say any and all procedures that may have to be used in emergency, let us outlaw them, because maybe if we did, we would not need them.

That is not the way to legislate. You legislate in a conservative fashion. You give the most leeway to people who may need every option at their disposal to save a woman like this and spare her family.

So, yes, we will come back to this. We will debate it. We are going to try to amend this bill. It is a tough one, and I look forward to the remainder of the debate.

I again thank my friend from New Hampshire for his courtesy, for allowing me to continue and complete my remarks, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I heard during the course of the debate from the Senator from California that we should look in the eyes of a mother. She used her example of a woman who went through this very difficult decision, which I understand.

Here we can look into the eyes of a mother, Brenda Shafer. She has two children. She was horrified by what she saw, so horrified that she quit her job at that clinic.

We also heard the Senator from California make great mention of the life-of-the-mother exception. Of course, there is a life-of-the-mother exception in the bill, but it is easier to say it is not in there, so we can continue this debate, I guess; so we have something to say. But I guess my question would be something along these lines. If this is a life-of-the-mother threat that Brenda Shafer witnessed, why was it done in an abortion clinic? Why was it not done in a hospital? If the mother's life is under threat, then I would certainly think it would be done in a hospital where we could get the maximum medical attention, not in a clinic, whose specific and only purpose is to perform abortions. So, you see that is another falsehood that is being perpetrated in the debate here.

Also, another falsehood is we are somehow part of the radical right because we oppose this procedure. The radical right, we were called. In the House, PATRICK KENNEDY, son of the distinguished Senator from Massachusetts, voted for this. So he is in the radical right. I guess I must have missed something in the newspapers somewhere. I missed it, I guess. The minority leader, former majority leader of the House of Representatives, DICK GEPHARDT, is a member of the radical right. And so many others who were pro-choice who voted for this bill.

You see, the reason they voted for it is because those on the other side are the radical ones. Nurse Shafer was so horrified by this, to her everlasting

credit, she stood up and exposed this for what it is. It is not done to save the life of the mother. We have a life-of-the-mother exception, but this is not done to save the life of the mother. As I said, if it is to save the life of the mother, then get the mother to the hospital, not to an abortion clinic.

Nurse Shafer told the Judiciary Committee at its November 17 hearing on this bill that this partial-birth abortion that she witnessed was carried out—this is very important, I say to my colleagues—was carried out because the little boy involved, the one with the angelic face that she describes right here: ''I never went back to that clinic, but I am still haunted by the face of that little boy—it was the most perfect, angelic face I have ever seen.'' Do you know what that little boy was diagnosed with? Do you know why he was aborted? He was diagnosed with Down's syndrome.

I have heard a lot today on the floor, from the Senator from California and from the Senator from Illinois and others, that somehow I am in the business of playing God here. When a woman electively, selectively makes a decision to abort a child because it has Down's syndrome, that is the only reason, that is the little angelic face—because of that, only, that is what we are talking about here in this particular case—is that not playing God? Somehow there is a twisted sense of logic here.

I guess I have to wonder where we draw the line. Is it a missing foot, a deformed foot? Does that qualify for that decision? A cleft palate, does that qualify? I am having trouble understanding just where it comes down. Where does it come down? God? Playing God? Who is playing God here?

Think about it: Down's syndrome. Do you know, we see Down's syndrome people acting on television everyday. There is a television series involving a young man with Down's syndrome. This little baby boy was killed with a catheter to the back of his head because he had Down's syndrome, in the United States of America. He did nothing else. He did not do anything wrong. He did not commit any crimes.

Even killers on death row who are executed are done so more humanely than this little boy died because he had Down's syndrome. Where are we, in China? What is the next election, female child? Is that all right? Male child, twins, cannot handle that?

This little baby boy, described by Nurse Shafer, with scissors jammed into the back of his head and the catheter sucking his brains out, his crime was that he had Down's syndrome.

This little boy, as nurse Shafer said, was executed by Dr. Haskell because he had Down's syndrome. You know, it is no small irony, Mr. President, if I do say so myself, that we now see the sad spectacle—and it is a sad spectacle—of some of the Senate's most respected and vigorous liberal advocates of the rights of disabled persons in our society coming to the Senate floor to defend an abortion procedure that often targets disabled children, targets them for destruction for one reason—they have a disability.

That is what the Senator from California is talking about. No, I am not playing God, Mr. President. I am not. I am trying to prevent other people from playing God. I am not playing God when I am trying to protect those under the Constitution of the United States any more than I am playing God when I say that a person in this country has the right to the protection of life under the Constitution.

Later on in this debate we may see an amendment. Who knows, somebody may offer an amendment, offered by one or more of those so-called disabled rights advocates, seeking to exempt the disabled from this bill who are disabled through no fault of their own, through some genetic abnormality. How can they claim to be defenders of the rights of the disabled and turn around and single out to target, to execute, out of the womb—not in the womb; out of the womb—disabled babies? Disabled babies.

I would like to see an opportunity where one of these disabled young Americans today, perhaps a young man or woman with Down's syndrome, or perhaps someone with a cleft palate or perhaps someone with a foot or an arm missing due to some horrible birth defect, I would like to see that person come face to face with some of these U.S. Senators and look them in the eye and say, ''You know what? No, I don't have the same privileges you had in terms of health, but I am trying to make something of myself, I'm trying to contribute to society. And I'm doing it. And thank you, I don't appreciate it when you say you want to take my life because of what I was dealt.''

That is what this debate is about. That is what it is about, Mr. President—make no mistake about it—killing disabled children. One of the primary debating tactics that the defenders of the partial-birth abortions employ is to argue—they argue that this brutal, grizzly procedure is utilized only in the hard cases, only in medical emergencies, only in medical emergencies threatening the life of the mother or in the case of severe congenital abnormalities.

But the words, Mr. President, of the only living doctor in America who has publicly—I will strike the word ''confess''—admitted, publicly admitted that he does partial-birth abortions, Dr. Martin Haskell of Dayton, OH, has given the lie to this deceptive debating tactic. Haskell told the AMA News that the overwhelming majority—this is Haskell himself. This is not Smith, this is not the distinguished Senator from Ohio sitting in the Chair, this is not somebody from the pro-life movement; this is Dr. Haskell himself. And in the AMA News he said the overwhelming majority of the partial-birth abortions that he does are for elective reasons—elective reasons.

Haskell performed 1,000 of them. So 800 babies, 800 babies —who knows what those 800 babies may have been—doctors, lawyers, maybe somebody who came up with a cure for cancer, the first woman President, the first black President? Who knows. We will never know. They never had a chance.

In the United States of America this is going on. And people come down here on the floor, time and time again, every time we debate this issue, and accuse me and others of playing God. Haskell said, ''Most of my abortions are elective in that 20- to 24-week range, and probably 20 percent, 20 percent, 200 out of the 1,000 are for genetic reasons.''

So let us call it like it is and stop distorting the record and saying things that are not accurate down here. Let us call it like it is—1,000 abortions, partial-birth abortions in the birth canal, everything but the head; 800 elective, 200 for genetic reasons.

Haskell later tried to claim he had been misquoted. It turns out, however, that the AMA News tape recorded the interview. They tape recorded it. They prepared a transcript. There was not any misquoting in there. Dr. Haskell was quoted accurately.

Like I said earlier, Mr. President, no wonder he did not have the guts to appear before the Judiciary Committee and try to defend his employment of this, because you cannot defend it. They have a bit of a problem with Dr. Haskell's confession that he performs partial-birth abortions on perfectly healthy women with perfectly healthy babies.

We did not hear about that from the Senator from California. We did not hear anything about the perfectly healthy babies. We did not hear the Senator from California stand up on the floor and say, ''I support that healthy baby having the right to live and not die at the hands of an abortionist with a catheter and a pair of scissors to the back of the head.'' No, we did not hear about that.

They tried to claim that somehow the word ''elective'' includes ''hard cases,'' quote unquote. Well, Mr. President, that is another blatant and deliberate deception. And as we debate this bill, there is litigation going on in the U.S. District Court for the Southern District of Ohio, which I am sure the Senator in the chair is aware of, in which Dr. Haskell is challenging the constitutionality of Ohio's new State law banning partial-birth abortions. He is an advocate. I give him credit. He does not see anything wrong with it.

During the course of the proceedings in that case, Dr. Harlan Giles has testified about what ''elective'' means. Dr. Giles is an obstetrician-gynecologist at the Medical College of Pennsylvania and Allegheny General Hospital who has a subspecialty in the field of perinatology, which includes maternal fetal medicine, high-risk pregnancy, ultrasound and genetics.

During his testimony before the U.S. district court in Ohio, Dr. Giles was

asked to tell the court what an elective abortion is. What is it? Here is what Dr. Giles said:

> An elective abortion is a procedure carried out for a patient for whom there is no identifiable maternal or fetal indication. That is to say, the patient feels it would be in her best interest to terminate the pregnancy either on social grounds, emotional grounds, financial grounds, etc. If there are no medical indications from either a fetal or maternal standpoint, we refer to the termination as elective.

There we have it, Mr. President, 8½ months, bring the child 80 percent into the world, making sure you bring it out feet first so that it cannot breathe first, and kill it. That is exactly what we are doing. That is what an elective abortion is, not for medical reasons. Once in a while that is done. But that is not what we are talking about here in 80 percent of the cases.

To sum up what he said is an elective abortion, it is one that is done on a perfectly healthy mother with a perfectly healthy baby—not always. Therefore, what Dr. Haskell told the AMA News is that 80 percent of partial-birth abortions he does are done on perfectly healthy mothers with perfectly healthy babies. But we did not hear about that today—nothing. We did not hear about that at all. That is the truth.

I said during the outset of my remarks, Mr. President, that I would offer my colleagues a detailed assessment of the November 17 hearing that the Judiciary Committee held on this bill. I would like to focus a few remarks on that at the outset of this November 17 hearing. My colleague, Senator KENNEDY, described H.R. 1833 as ''extremist legislation at its worst.'' I found that somewhat puzzling that Senator KENNEDY would say this because his own son, Congressman PATRICK KENNEDY of Rhode Island, voted for the bill in the House, in the exact form that it is here before us in the Senate.

So I assume from that that he means his son is an extremist, and he may very well feel that way. I do not know. We already mentioned Mr. GEPHARDT and Mr. BONIOR. I guess they are extremists.

Mr. President, Senator KENNEDY got it wrong, with all due respect to my colleague. The real extremists are those who believe that partial-birth abortions should be legal through all 9 months of pregnancy. We are talking about in the latter months of pregnancy, the latter days in some cases. Those are the extremists; they think it is legal for Haskell to use this method to kill a little Down's syndrome baby. They are the extremists. That is who the extremists are.

Frankly, I initially opposed sending the bill to the committee for a hearing because I did not think it was necessary. But I am glad we had a hearing. As you know, I agreed to have it and allowed the vote to go that way, did not object, because I think that hearing transcript, which the distinguished Senator from Ohio had the opportunity to be a part of, is now available, and I invite my colleagues to review it in detail. Before you vote, read it. It demonstrates just how bankrupt the arguments are on this issue.

When this bill first came to the Senate floor on November 7 and 8, we heard the opposition floor manager, Senator BOXER, repeatedly assert that partial-birth abortions are emergency operations. Senator BOXER said it again today, undertaken to save women's lives. During the November 7 floor debate on this bill, for example, Senator BOXER referred to partial-birth abortion as ''an emergency medical procedure that must be performed on certain pregnant women lest families lose that mother forever.''

You heard it again today. During her appearance on ''Nightline'' with me on November 7, she claimed that partial-birth abortions are emergency medical procedures and asserted that H.R. 1833 would ''outlaw an emergency medical procedure.''

The next day, on November 8, Senator BOXER helped lead the charge on the Senate floor for a hearing on H.R. 1833. And when the Senate agreed to refer the bill to the Judiciary Committee for the hearing, it was incumbent upon Senator BOXER and allies on the committee to produce testimony to support her repeated assertions that a partial-birth abortion is an emergency medical procedure.

Well, they had plenty of time to prove it, but they failed to do so. You were there, Mr. President. The lead witness that the opponents of this bill presented was Dr. Nancy Campbell, who is the Medical Director for Planned Parenthood here in Washington. Far from claiming that any partial-birth abortions are undertaken as emergency procedures to save the lives of women, Dr. Campbell asserted that the vast majority of these procedures are done because of severe fetal malformations. So Dr. Campbell's testimony failed to support Senator BOXER's claims. A partial-birth abortion that is undertaken to destroy a baby because the baby has a disability is not necessarily an emergency abortion done to save the life of a mother. So it is not true what is being said here.

At some point in the debate, perhaps tomorrow when we go back to this debate—as the Chair knows, we are going to break at 7:30 and recess the Senate until tomorrow, but at the appropriate time I am going to read into the RECORD comments in a large number of letters from ob-gyn's who take a very interesting view of this bill. They support the bill, and they say the process of partial-birth abortions is simply not necessary to save the life of a mother.

In fact, regarding Dr. Campbell's assertion that the vast majority of partial-birth abortions are done because of severe fetal malformations, that is also unsupportable. Campbell cited no academic studies, no medical journal articles, no government or private statistics, nothing—nothing. Just stated it, no support. In fact, her statement to that effect appears only in the transcript of her oral argument, not in her written statement.

So as I pointed out earlier, the only reliable testimony that we have on this point comes from the only living doctor who is willing to admit publicly that he does these, Dr. Martin Haskell. Haskell told the American Medical Association News that 80 percent of the partial-birth abortions he does are purely for elective reasons. It is entirely reliable because he does them. The man knows what he is talking about. Give him credit for admitting it. He is telling the truth. He is not trying to hide it.

Campbell's assertion, on the other hand, is completely unreliable because she does not do partial-birth abortions and cited no other evidence to support her completely unsupported claim. It is interesting that they had Dr. Campbell testify and she does not do partial-birth abortions and the guy who does do it, Haskell, he does not testify. He cannot be here.

The only other medical witness on the other side was Dr. Courtland Robinson, who is a medical professor at Johns Hopkins, and during his testimony Robinson managed to contradict both Senator BOXER's claim that partial-birth abortions are done for emergency reasons to save women's lives and Dr. Campbell's assertion that the vast majority of them are done because of severe fetal abnormalities. On the other hand, though, Robinson's testimony supports Dr. Haskell's statement to the AMA News that the overwhelming majority, 80 percent of these abortions are done for purely elective reasons.

We have all heard the debate on abortion, about whether or not a woman has the right to choose in the first month, second month, third month. That is a debate that we have had on the Senate floor, and everyone knows where I come from on it. That is not the debate we are having on the Senate floor right now. We are having a debate on the Senate floor now as to whether or not we approve of this procedure that I have earlier described of allowing a child to be brought out through the birth canal with the exception of the head and killed with scissors and a catheter with no anesthetic. And as I said then, would you kill a pet, would you euthanize your pet in that way? Yet we do it to children.

During his oral testimony before the committee, Robinson said that ''women present to us for later abortions for a number of reasons. I am a doctor,'' Robinson continued, ''and it is not my place to judge my patient's reasons for ending a pregnancy or to punish her because circumstances prevented her from obtaining an abortion earlier. It is my place to treat my patient, a woman with a pregnancy she feels she cannot continue.

But bear in mind the timeframe we are talking about—5th through 9th month. I again give the doctor credit for his candor. In seeking to justify the use of the brutal and shockingly inhumane partial-birth procedure, Robinson did claim, as Senator BOXER does, that these are emergency medical procedures.

Neither did Robinson assert, as did Campbell, that the vast majority of such abortions are undertaken because of severe fetal malformations. No. Dr. Robinson told the truth. He corroborated what Dr. Haskell said—80 percent of the partial-birth abortions are purely elective.

So, in conclusion on that point, there are only two witnesses, medical witnesses, that the supporters of partial-birth abortions offered at the 17th of November Judiciary hearing—Campbell and Robinson. Neither one had ever performed a partial-birth abortion, and they flatly contradicted each other about why partial-birth abortions are performed, Campbell claiming the vast majority are because of severe fetal abnormalities, and Robinson said they are done for elective reasons—in other words, on demand. No consistency whatsoever.

Now, the next two witnesses that the supporters of partial-birth abortion presented—and this is the interesting part—were two women who had late-term abortions. Interestingly enough, however—and this was not brought out by the Senator from California—neither one of them had a partial-birth abortion. The Senator from Ohio pointed it out when he was speaking, that neither one of the women had a partial-birth abortion.

The stories they told before the committee were very compelling and very emotional, and I respect that. I understand it. But they were not partial-birth abortions. The first woman was Miss Coreen Costello of Agoura, CA. She explained to the committee that she sought a late-term abortion because her baby had severe deformities and was not expected to survive. She then described her abortion, and what she described was not a partial-birth abortion. It was not a partial-birth abortion.

She said her baby died in the womb before any part of her was removed. She said the baby was not stabbed in the head with scissors. Third, Miss Costello said no part of her brain was missing. Of course not. It was not a partial-birth abortion. The baby died in the womb. That is different.

Clearly, what Ms. Costello described is something else. I do not intend, Mr. President, to make light of the agony that Ms. Costello's anguish caused her over her baby's condition and her abortion. The only thing I want to point out is that this debate is about partial-birth abortions. They could not find anybody to testify who had a partial-birth abortion because the life of the mother was threatened. They could not find anybody to do it. That is my point. That is why we are here, to stop a brutal practice.

To be honest, Ms. Costello's testimony, although very emotional and very personal, is not relevant to the debate we are having today.

The second and last witness who had received a late-term abortion to support partial-birth abortions presented at the November 17 hearing was Viki Wilson. The Senator from Ohio mentioned her.

Ms. Wilson, like Ms. Costello, told the committee about her child's condition and why she had decided to have a late-term abortion. Like Ms. Costello, Ms. Wilson proceeded to describe an abortion that very clearly was not a partial-birth abortion.

She said her little girl died inside the womb. ''My daughter died with dignity inside my womb,'' Ms. Wilson testified. ''She was not stabbed in the back of the head with scissors, no one dragged her out half alive and killed her. We never would have allowed that.''

That is interesting, she never would have allowed that, but we are allowing it here. It is going on. Maybe she would not, and I give Ms. Wilson credit for saying she would not allow it, but others do and it is happening. One thousand Dr. Haskell performed. The estimates are one or two a day.

So not only did Ms. Wilson, like Ms. Costello, not have a partial-birth abortion, she also told the committee she never would have consented to it. Very interesting. Their witness.

In summary, Mr. President, the supporters of partial-birth abortions were not able to produce at the November 17 hearing a single doctor who had ever performed a partial-birth abortion. The only doctor who has publicly confessed to performing them refused to appear, and all they did produce was two doctors who had never done partial-birth abortions, but nonetheless speculated, and in the process contradicted one another about why partial-birth abortions are done.

In short, the supporters of partial-birth abortion produced not a single doctor who cast any doubt whatsoever on the one who has done them, Dr. Haskell. In his own unrefuted statement to the AMA News, 80 percent of partial-birth abortions he does are purely elective. Nobody refuted it.

The supporters of partial-birth abortion were not able to produce as a witness a single woman who had ever undergone a partial-birth abortion. Of course, they are out there, but they did not produce any.

Senator BOXER says that partial-birth abortions are an emergency, and yet she could not find anybody to say that. Other supporters of partial-birth abortions talk about how the procedure is done to eliminate children with severe abnormalities, yet they could not produce a witness who had a partial-birth abortion for that reason.

There you have it, the supporters of partial-birth abortion demanded a hearing to tell their side of the story, and what did they produce? Two doctors who had not done any and two women who had not had any. There is their hearing. They fought hard for it. They wanted it. They got it.

The last witness produced by the supporters of partial-birth abortion at the hearing was a constitutional law professor by the name of Louis Michael Seidman of Georgetown University Law Center. Frankly, as a Catholic myself, I am a little surprised that a Catholic university has on its payroll such a highly partisan, indeed enthusiastic, supporter of abortion on demand through all 9 months of pregnancy for any reason. But to each his own.

Predictably, given Professor Seidman's undisguised enthusiasm for a right to an abortion, that is, Roe versus Wade, it is not surprising he confidently predicted that the Court would strike H.R. 1833 if it were to be enacted.

The other constitutional law expert on the panel was Dr. Kmiec, who served as Assistant Attorney General of the United States at the Justice Department under President Reagan and who now is a professor of law at Notre Dame. He strongly disagreed with Professor Seidman, and I believe Professor Kmiec made, by far, the better case.

Much to my disappointment, though, the Supreme Court in 1992, by a vote of 5 to 4 in the case of Planned Parenthood versus Casey, reaffirmed the basic holding of Roe versus Wade. But the Court did not address in that case, which involved a Pennsylvania State law, a congressional statute like H.R. 1833 that aims to protect babies who have emerged into the birth canal from being brutally killed. Kmiec has no doubt this will be held constitutional if this law passes.

A born child is a constitutional person. Why is a little baby whose whole body beneath her head has already entered the birth canal and entered outside the birth canal be less of a person than one whose head remains inside the birth canal? Can someone please answer that question for me? Why is it any less a person? Three inches, three seconds; three inches, three seconds. If you do not stop the baby from being born, in 3 seconds it is out; it is a living child, 3 inches or 4. What is the difference? If somebody can tell me what the difference is, I sure would like to hear it.

Where in the Constitution does it say that the Congress is powerless to protect such a child from Dr. Haskell's scissors and catheter? Where in the Constitution, where in the Constitution does it say that?

The God-given right to life, of which Thomas Jefferson wrote in the magnificent Declaration of Independence, protects the right to life, liberty and the pursuit of happiness of each and every child who falls victim to Haskell's scissors and his suction catheter, and our great Constitution which guarantees the right of each and every person to

equal protection under the law protects these defenseless, partially born babies from being attacked by Dr. Haskell and other abortionists like him. The American people know it, and the people sitting in this Chamber now, members of the staff, they know it, my colleagues know it—we all know it. You ought to witness one of these things if you have any doubts. See if you can come away like Nurse Shafer and not be affected.

I am going to have a lot more to say on this tomorrow, but I know we have a gentleman's agreement to get this place closed down, because we do not have anybody else to relieve the Chair.

At this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DEWINE. Mr. President, I would like to take this opportunity to, very briefly, respond to the comments my colleague from California made a few moments ago. I will try to be brief because I realize that we will be debating this bill on other days.

My colleague from California placed in the RECORD a letter, which I might point out had already been placed in the RECORD in the previous days of debate. That was a letter from Nurse Shafer's supervisor. That letter calls into question some of the things that Nurse Shafer said, or in the words of my colleague from California, the supervisor doubts the veracity of the nurse.

Mr. President, let me again talk about the testimony that we heard in the Judiciary Committee that refutes the attacks on Nurse Shafer and that refutes this specific letter by the purported supervisor of Nurse Shafer. First, the issue of how far along, how many weeks along Dr. Haskell would continue to do abortions. Let me quote from the letter. ''Dr. Haskell does not perform abortions past 24 weeks of pregnancy.''

Wrong. Dr. Haskell does. Dr. Haskell says so himself. We have already put that into the RECORD in Dr. Haskell's own words.

Second, ''Dr. Haskell does not use ultrasound.'' Wrong. The record clearly shows he does. How do we know that? Because he says he does.

Third. ''At no point is there any fetal movement or response that would indicate awareness, pain, or struggle.'' Wrong. The testimony that we heard would indicate contrary to that.

So I do not think we should spend this entire debate talking about the veracity of Nurse Shafer. But, again, I would go back to what I said an hour ago and, that is, if anyone doubts her veracity, take the facts, compare them with what Dr. Haskell says, the man who performs the abortions. What you will find is that Nurse Shafer's description fits identically with what Dr. Haskell says he does himself.

So this is a red herring. This is a side issue. This is the old tactic that is always used in court or in a debate: When you do not have the facts, talk about something else. Attack somebody whose testimony you do not like. Let us continue, if we can, to try to focus on what this debate is all about. I will come back to that in a moment. Senator BOXER has quoted Ms. Costello and Ms. Wilson, who gave very compelling testimony. Yes, it was. I thought that in my previous statement I stated that.

Quite frankly, Mr. President, I do not see how anyone could have listened to their testimony and not have teared up. I did. Nobody who is a parent and nobody who has lost a child could listen to that and not become emotional. The hearts of everybody in that room went out to those two women. But let me again say, Mr. President, that their testimony was not relevant. Let us confine ourselves to the terms of this debate and to the terms of this bill. No matter how compelling or how emotional their testimony was, or how much our hearts go out to them, it does not alter the simple fact that this bill does not apply to their situations. And so, again, the opponents of this bill want to talk about everything in the world but the bill.

With all due respect, I believe that the attack on this bill that we have heard this afternoon, 90 percent—and that is a conservative estimate—of what was said in opposition to this bill is totally irrelevant. You may believe it, disbelieve it, agree with it, disagree with it, but it is irrelevant. This bill, I submit, Mr. President, has nothing to do with nursing home standards. It has nothing to do with the EPA. It has nothing to do with the environment. We can and will argue these issues on this floor. But let us, please, try to keep this debate to what the issues are in front of us.

Maybe on a note of personal privilege, if I could, Mr. President, my friend from California talks about the ''joy of giving birth.'' She used that phrase four or five times. I guess she was inferring that those of us who favor this bill use this term to in some way denigrate women and say that it is just an easy thing. Well, let me tell you, Mr. President, and let me assure my colleague from California, as the father of eight—but much more importantly, as the husband of the mother of eight, you are never going to catch this U.S. Senator in any way denigrating or in any way making light of birth. You are not going to find me minimizing the pain or the great accomplishment of the mother or the seriousness of the delivery.

Again, Mr. President, let us try to stay on the debate and try to stay on what is relevant. The opponents of this bill talk about protecting the life of the mother. I would, again, call to my colleagues' attention the affirmative defense that was in this bill when it was passed in the House. When many pro-choice Members of the House voted for this bill, that affirmative defense was in there. I also, though, refer my colleagues in the Senate to the evidence that came at the hearing. Again, this is the hearing that the opponents of this bill wanted. It was a good hearing, and we learned things. The evidence at the hearing clearly showed that this is a procedure that you would not use—that a doctor would not use to save the life of a mother. I point out that the testimony clearly showed that this procedure takes 3 days, from the time the woman comes in and you begin to treat the woman until the actual final act takes place. The testimony at the hearing was very clear. If the life of the mother was at stake, a doctor would not do this method, would not do this 3-day procedure. This procedure is not the ''standard of care'' in these cases.

So, again, we can talk about saving the life of the mother. But I maintain that it is outside the scope of this debate. We have the affirmative defense built into the law, built into this proposed law, and you also have testimony—medical testimony—that this is not the procedure you would use anyway.

Dr. Pamela Smith of Chicago's Mt. Sinai Medical Center testified that medical texts prescribe at least three other techniques, but not this one. I will not take the time of the Senate to go into all the medical details, but the testimony is clearly there.

I also point out that no one at the hearing—no one at the hearing—disputed Dr. Smith's testimony. That is the state of the record. We simply do not do this procedure. Again, confine ourselves to this debate.

Mr. President, the debate will go on. We will hear again from both sides, but we should try to narrow it and talk about what is at stake. It is not a question of, do we do away with Roe versus Wade? It is not a question about Republicans or Democrats or conservatives or liberals, or trends, or Republican Congresses or Democrat Congresses. It is about a very, very, very limited number of abortions that are performed each year. But they are performed. They are, I maintain, wrong.

I think the evidence is abundantly clear. My colleague who is in the chair and who has shown the pictures and who has talked about it in graphic detail has described exactly what this procedure consists of. So it is a public policy debate, of very limited scope, but of an important area. We define in this debate, as we do in many debates, what kind of a people we are.

To my friends who are pro-choice—and, again, I say being pro-choice, being for Roe versus Wade, is not inconsistent for being with this bill; in fact, you can be consistent and do that—I say to them and I say to my

friend from California and others who oppose this bill, is there not some limit, some limit, to what a civilized society will tolerate, to what a good and decent people will allow?

I think, Mr. President, in this bill we are saying, yes, there is a limit, however narrow that may be drawn, but there is a limit. So in this bill, in this public debate, as in many debates, we define and redefine and redefine what kind of a people we are and what we hold dear.

MORNING BUSINESS

SAFE DRINKING WATER ACT AMENDMENTS OF 1995

The text of the bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes, as passed by the Senate on November 29, 1995, is as follows:

S. 1316

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Safe Drinking Water Act Amendments of 1995''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

(c) REFERENCES TO TITLE XIV OF THE PUBLIC HEALTH SERVICE ACT.—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 title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.).

SEC. 2. FINDINGS.

Congress finds that—

(1) safe drinking water is essential to the protection of public health;

(2) because the requirements of title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

(3) the Federal Government commits to take steps to foster and maintain a genuine partnership with the States in the administration and implementation of the Safe Drinking Water Act;

(4) States play a central role in the implementation of safe drinking water programs, and States need increased financial resources and appropriate flexibility to ensure the prompt and effective development and implementation of drinking water programs;

(5) the existing process for the assessment and regulation of additional drinking water contaminants needs to be revised and improved to ensure that there is a sound scientific basis for drinking water regulations and that the standards established address the health risks posed by contaminants;

(6) procedures for assessing the health effects of contaminants and establishing drinking water standards should be revised to provide greater opportunity for public education and participation;

(7) in setting priorities with respect to the health risks from drinking water to be addressed and in selecting the appropriate level of regulation for contaminants in drinking water, risk assessment and benefit-cost analysis are important and useful tools for improving the efficiency and effectiveness of drinking water regulations to protect human health;

(8) more effective protection of public health requires—

(A) a Federal commitment to set priorities that will allow scarce Federal, State, and local resources to be targeted toward the drinking water problems of greatest public health concern; and

(B) maximizing the value of the different and complementary strengths and responsibilities of the Federal and State governments in those States that have primary enforcement responsibility for the Safe Drinking Water Act; and

(9) compliance with the requirements of the Safe Drinking Water Act continues to be a concern at public water systems experiencing technical and financial limitations, and Federal, State, and local governments need more resources and more effective authority to attain the objectives of the Safe Drinking Water Act.

SEC. 3. STATE REVOLVING LOAN FUNDS.

The title (42 U.S.C. 300f et seq.) is amended by adding at the end the following:

''PART G—STATE REVOLVING LOAN FUNDS

''GENERAL AUTHORITY

''SEC. 1471. (a) CAPITALIZATION GRANT AGREEMENTS.—The Administrator shall offer to enter into an agreement with each State to make capitalization grants to the State pursuant to section 1472 (referred to in this part as 'capitalization grants') to establish a drinking water treatment State revolving loan fund (referred to in this part as a 'State loan fund').

''(b) REQUIREMENTS OF AGREEMENTS.—An agreement entered into pursuant to this section shall establish, to the satisfaction of the Administrator, that—

''(1) the State has established a State loan fund that complies with the requirements of this part;

''(2) the State loan fund will be administered by an instrumentality of the State that has the powers and authorities that are required to operate the State loan fund in accordance with this part;

''(3) the State will deposit the capitalization grants into the State loan fund;

''(4) the State will deposit all loan repayments received, and interest earned on the amounts deposited into the State loan fund under this part, into the State loan fund;

''(5) the State will deposit into the State loan fund an amount equal to at least 20 percent of the total amount of each payment to be made to the State on or before the date on which the payment is made to the State, except as provided in subsection (c)(4);

''(6) the State will use funds in the State loan fund in accordance with an intended use plan prepared pursuant to section 1474(b);

''(7) the State and loan recipients that receive funds that the State makes available from the State loan fund will use accounting procedures that conform to generally accepted accounting principles, auditing procedures that conform to chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act of 1984'), and such fiscal procedures as the Administrator may prescribe; and

''(8) the State has adopted policies and procedures to ensure that loan recipients are reasonably likely to be able to repay a loan.

''(c) ADMINISTRATION OF STATE LOAN FUNDS.—

''(1) IN GENERAL.—The authority to establish assistance priorities for financial assistance provided with amounts deposited into the State loan fund shall reside in the State agency that has primary responsibility for the administration of the State program under section 1413, after consultation with other appropriate State agencies (as determined by the State): *Provided further*, That in nonprimacy States, the Governor shall determine which State agency will have the authority to establish assistance priorities for financial assistance provided with amounts deposited into the State loan fund.

''(2) FINANCIAL ADMINISTRATION.—A State may combine the financial administration of the State loan fund pursuant to this part with the financial administration of a State water pollution control revolving fund established by the State pursuant to title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), or other State revolving funds providing financing for similar purposes, if the Administrator determines that the grants to be provided to the State under this part, and the loan repayments and interest deposited into the State loan fund pursuant to this part, will be separately accounted for and used solely for the purposes of and in compliance with the requirements of this part.

''(3) TRANSFER OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, a Governor of a State may—

''(i) reserve up to 50 percent of a capitalization grant made pursuant to section 1472 and add the funds reserved to any funds provided to the State pursuant to section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381); and

''(ii) reserve in any year a dollar amount up to the dollar amount that may be reserved under clause (i) for that year from capitalization grants made pursuant to section 601 of such Act (33 U.S.C. 1381) and add

the reserved funds to any funds provided to the State pursuant to section 1472.

''(B) STATE MATCH.—Funds reserved pursuant to this paragraph shall not be considered to be a State match of a capitalization grant required pursuant to this title or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

''(4) EXTENDED PERIOD.—Notwithstanding subsection (b)(5), a State shall not be required to deposit a State matching amount into the fund prior to the date on which each payment is made for payments from funds appropriated for fiscal years 1994, 1995, and 1996, if the matching amounts for the payments are deposited into the State fund prior to September 30, 1998.

''CAPITALIZATION GRANTS

''SEC. 1472. (a) GENERAL AUTHORITY.—The Administrator may make grants to capitalize State loan funds to a State that has entered into an agreement pursuant to section 1471.

''(b) FORMULA FOR ALLOTMENT OF FUNDS.—

''(1) IN GENERAL.—Subject to subsection (c) and paragraph (2), funds made available to carry out this part shall be allotted to States that have entered into an agreement pursuant to section 1471 in accordance with—

''(A) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming; and

''(B) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to section 1475(c), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under subparagraph (A).

''(2) OTHER JURISDICTIONS.—The formula established pursuant to paragraph (1) shall reserve 0.5 percent of the amounts made available to carry out this part for a fiscal year for providing direct grants to the jurisdictions, other than Indian Tribes, referred to in subsection (f).

''(c) RESERVATION OF FUNDS FOR INDIAN TRIBES.—

''(1) IN GENERAL.—For each fiscal year, prior to the allotment of funds made available to carry out this part, the Administrator shall reserve 1.5 percent of the funds for providing financial assistance to Indian Tribes pursuant to subsection (f).

''(2) USE OF FUNDS.—Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes, as determined by the Administrator in consultation with the Director of the Indian Health Service and Indian Tribes.

''(3) NEEDS ASSESSMENT.—The Administrator, in consultation with the Director of the Indian Health Service and Indian Tribes, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to section 1475(c), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

''(d) TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.—

''(1) DEFINITIONS.—In this subsection:

''(A) SMALL SYSTEM.—The term 'small system' means a public water system that serves a population of 10,000 or fewer.

''(B) TECHNICAL ASSISTANCE.—The term 'technical assistance' means assistance provided by a State to a small system, including assistance to potential loan recipients and assistance for planning and design, development and implementation of a source water quality protection partnership program, alternative supplies of drinking water, restructuring or consolidation of a small system, and treatment to comply with a national primary drinking water regulation.

''(2) RESERVATION OF FUNDS.—To provide technical assistance pursuant to this subsection, each State may reserve from capitalization grants received in any year an amount that does not exceed the greater of—

''(A) an amount equal to 2 percent of the amount of the capitalization grants received by the State pursuant to this section; or

''(B) $300,000.

''(e) ALLOTMENT PERIOD.—

''(1) PERIOD OF AVAILABILITY FOR FINANCIAL ASSISTANCE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the sums allotted to a State pursuant to subsection (b) for a fiscal year shall be available to the State for obligation during the fiscal year for which the sums are authorized and during the following fiscal year.

''(B) FUNDS MADE AVAILABLE FOR FISCAL YEARS 1995 AND 1996.—The sums allotted to a State pursuant to subsection (b) from funds that are made available by appropriations for each of fiscal years 1995 and 1996 shall be available to the State for obligation during each of fiscal years 1995 through 1998.

''(2) REALLOTMENT OF UNOBLIGATED FUNDS.—Prior to obligating new allotments made available to the State pursuant to subsection (b), each State shall obligate funds accumulated before a date that is 1 year prior to the date of the obligation of a new allotment from loan repayments and interest earned on amounts deposited into a State loan fund. The amount of any allotment that is not obligated by a State by the last day of the period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under subsection (b), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (c). None of the funds reallotted by the Administrator shall be reallotted to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

''(3) ALLOTMENT OF WITHHELD FUNDS.—All funds withheld by the Administrator pursuant to subsection (g) and section 1442(e)(3) shall be allotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subsection (b). None of the funds allotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1418(a).

''(f) DIRECT GRANTS.—

''(1) IN GENERAL.—The Administrator is authorized to make grants for the improvement of public water systems of Indian Tribes, the District of Columbia, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam and, if funds are appropriated to carry out this part for fiscal year 1995, the Republic of Palau.

''(2) ALASKA NATIVE VILLAGES.—In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

''(g) NEW SYSTEM CAPACITY.—Beginning in fiscal year 1999, the Administrator shall withhold the percentage prescribed in the following sentence of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 1418(a). The percentage withheld shall be 5 percent for fiscal year 1999, 10 percent for fiscal year 2000, and 15 percent for each subsequent fiscal year.

''ELIGIBLE ASSISTANCE

''SEC. 1473. (a) IN GENERAL.—The amounts deposited into a State loan fund, including any amounts equal to the amounts of loan repayments and interest earned on the amounts deposited, may be used by the State to carry out projects that are consistent with this section.

''(b) PROJECTS ELIGIBLE FOR ASSISTANCE.—

''(1) IN GENERAL.—The amounts deposited into a State loan fund shall be used only for providing financial assistance for capital expenditures and associated costs (but excluding the cost of land acquisition unless the cost is incurred to acquire land for the construction of a treatment facility or for a consolidation project) for—

''(A) a project that will facilitate compliance with national primary drinking water regulations promulgated pursuant to section 1412;

''(B) a project that will facilitate the consolidation of public water systems or the use of an alternative source of water supply;

''(C) a project that will upgrade a drinking water treatment system; and

''(D) the development of a public water system to replace private drinking water supplies if the private water supplies pose a significant threat to human health.

''(2) OPERATOR TRAINING.—Associated costs eligible for assistance under this part include the costs of training and certifying the persons who will operate facilities that receive assistance pursuant to paragraph (1).

''(3) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no assistance under this part shall be provided to a public water system that—

''(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; and

''(ii) has a history of—

''(I) past violations of any maximum contaminant level or treatment technique established by a regulation or a variance; or

''(II) significant noncompliance with monitoring requirements or any other requirement of a national primary drinking water regulation or variance.

''(B) RESTRUCTURING.—A public water system described in subparagraph (A) may receive assistance under this part if—

''(i) the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that such measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this title over the long term; and

''(ii) the use of the assistance will ensure compliance.

''(c) ELIGIBLE PUBLIC WATER SYSTEMS.—A State loan fund, or the Administrator in the case of direct grants under section 1472(f), may provide financial assistance only to community water systems, publicly owned water systems (other than systems owned by Federal agencies), and nonprofit noncommunity water systems.

''(d) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only—

''(1) to make loans, on the condition that—

''(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

''(B) principal and interest payments on each loan will commence not later than 1 year after completion of the project for which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (e)(1)), a State may provide an extended term for a loan, if the extended term—

''(i) terminates not later than the date that is 30 years after the date of project completion; and

''(ii) does not exceed the expected design life of the project;

''(C) the recipient of each loan will establish a dedicated source of revenue (or, in the case of a privately-owned system, demonstrate that there is adequate security) for the repayment of the loan; and

''(D) the State loan fund will be credited with all payments of principal and interest on each loan;

''(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after October 14, 1993, or to refinance a debt obligation for a project constructed to comply with a regulation established pursuant to an amendment to this title made by the Safe Drinking Water Act Amendments of 1986 (Public Law 99–339; 100 Stat. 642);

''(3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under subsection (b)) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;

''(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund; and

''(5) to earn interest on the amounts deposited into the State loan fund.

''(e) ASSISTANCE FOR DISADVANTAGED COMMUNITIES.—

''(1) DEFINITION OF DISADVANTAGED COMMUNITY.—In this subsection, the term 'disadvantaged community' means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

''(2) LOAN SUBSIDY.—Notwithstanding subsection (d), in any case in which the State makes a loan pursuant to subsection (d) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

''(3) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (2) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

''(f) SOURCE WATER QUALITY PROTECTION AND CAPACITY DEVELOPMENT.—

''(1) IN GENERAL.—Notwithstanding subsection (b)(1), a State may—

''(A) provide assistance, only in the form of a loan, to—

''(i) any public water system described in subsection (c) to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination; or

''(ii) any community water system described in subsection (c) to provide funding in accordance with section 1419(d)(1)(C)(i);

''(B) provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 1418(c); and

''(C) make expenditures from the capitalization grant of the State for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1419, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

''(2) LIMITATION.—For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed 15 percent of the amount of the capitalization grant received by the State for that year and may not exceed 10 percent of that amount for any one of the following activities:

''(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

''(B) To provide funding to implement recommendations of source water quality protection partnerships pursuant to paragraph (1)(A)(ii).

''(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

''(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

''STATE LOAN FUND ADMINISTRATION

''SEC. 1474. (a) ADMINISTRATION, TECHNICAL ASSISTANCE, AND MANAGEMENT.—

''(1) ADMINISTRATION.—Each State that has a State loan fund is authorized to expend from the annual capitalization grant of the State a reasonable amount, not to exceed 4 percent of the capitalization grant made to the State, for the costs of the administration of the State loan fund.

''(2) STATE PROGRAM MANAGEMENT ASSISTANCE.—

''(A) IN GENERAL.—Each State that has a loan fund is authorized to expend from the annual capitalization grant of the State an amount, determined pursuant to this paragraph, to carry out the public water system supervision program under section 1443(a) and to—

''(i) administer, or provide technical assistance through, source water quality protection programs, including a partnership program under section 1419; and

''(ii) develop and implement a capacity development strategy under section 1418(c) in the State.

''(B) LIMITATION.—Amounts expended by a State pursuant to this paragraph for any fiscal year may not exceed an amount that is equal to the amount of the grant funds available to the State for that fiscal year under section 1443(a).

''(C) STATE FUNDS.—For any fiscal year, funds may not be expended pursuant to this paragraph unless the Administrator determines that the amount of State funds made available to carry out the public water system supervision program under section 1443(a) for the fiscal year is not less than the amount of State funds made available to carry out the program for fiscal year 1993.

''(b) INTENDED USE PLANS.—

''(1) IN GENERAL.—After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this part shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

''(2) CONTENTS.—An intended use plan shall include—

''(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

''(B) the criteria and methods established for the distribution of funds; and

''(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

''(3) USE OF FUNDS.—

''(A) IN GENERAL.—An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that—

''(i) address the most serious risk to human health;

''(ii) are necessary to ensure compliance with the requirements of this title (including requirements for filtration); and

''(iii) assist systems most in need on a per household basis according to State affordability criteria.

''(B) LIST OF PROJECTS.—Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this part, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

''STATE LOAN FUND MANAGEMENT

''SEC. 1475. (a) IN GENERAL.—Not later than 1 year after the date of enactment of this part, and annually thereafter, the Administrator shall conduct such reviews and audits as the Administrator considers appropriate, or require each State to have the reviews and audits independently conducted, in accordance with the single audit requirements of chapter 75 of title 31, United States Code.

''(b) STATE REPORTS.—Not later than 2 years after the date of enactment of this part, and every 2 years thereafter, each State that administers a State loan fund shall publish and submit to the Administrator a report on the activities of the State under this part, including the findings of the most recent audit of the State loan fund.

''(c) DRINKING WATER NEEDS SURVEY AND ASSESSMENT.—Not later than 1 year after the date of enactment of this part, and every 4 years thereafter, the Administrator shall submit to Congress a survey and assessment of the needs for facilities in each State eligible for assistance under this part (including, in the case of the State of Alaska, the needs of Native villages (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (c))). The survey and assessment conducted pursuant to this subsection shall—

''(1) identify, by State, the needs for projects or facilities owned or controlled by community water systems eligible for assistance under this part on the date of the assessment (other than refinancing for a project pursuant to section 1473(d)(2));

''(2) estimate the needs for eligible facilities over the 20-year period following the date of the assessment;

''(3) identify, by size category, the population served by public water systems with needs identified pursuant to paragraph (1); and

''(4) include such other information as the Administrator determines to be appropriate.

''(d) EVALUATION.—The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 1999. The evaluation shall be submitted to Congress at the same time as the President submits to Congress, pursuant to section 1108 of title 31, United States Code, an appropriations request for fiscal year 2001 relating to the budget of the Environmental Protection Agency.

''ENFORCEMENT

''SEC. 1476. The failure or inability of any public water system to receive funds under this part or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this title.

''REGULATIONS AND GUIDANCE

''SEC. 1477. The Administrator shall publish such guidance and promulgate such regulations as are necessary to carry out this part, including guidance and regulations to ensure that—

''(1) each State commits and expends funds from the State loan fund in accordance with the requirements of this part and applicable Federal and State laws; and

''(2) the States and eligible public water systems that receive funds under this part use accounting procedures that conform to generally accepted accounting principles, auditing procedures that conform to chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act of 1984'), and such fiscal procedures as the Administrator may prescribe.

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 1478. (a) GENERAL AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this part $600,000,000 for fiscal year 1994 and $1,000,000,000 for each of fiscal years 1995 through 2003.

''(b) HEALTH EFFECTS RESEARCH.—From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve $10,000,000 for health effects research on drinking water contaminants authorized by section 1442. In allocating funds made available under this subsection, the Administrator shall give priority to research concerning the health effects of cryptosporidium, disinfection byproducts, and arsenic, and the implementation of a research plan for subpopulations at greater risk of adverse effects pursuant to section 1442(l).

''(c) MONITORING FOR UNREGULATED CONTAMINANTS.—From funds appropriated pursuant to this section for each fiscal year beginning with fiscal year 1997, the Administrator shall reserve $2,000,000 to pay the costs of monitoring for unregulated contaminants under section 1445(a)(2)(D).

''(d) SMALL SYSTEM TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—Subject to paragraph (2), from funds appropriated pursuant to this section for each fiscal year for which the appropriation made pursuant to subsection (a) exceeds $800,000,000, the Administrator shall reserve to carry out section 1442(g) an amount that is equal to any amount by which the amount made available to carry out section 1442(g) is less than the amount referred to in the third sentence of section 1442(g).

''(2) MAXIMUM AMOUNT.—For each fiscal year, the amount reserved under paragraph (1) shall be not greater than an amount equal to the lesser of—

''(A) 2 percent of the funds appropriated pursuant to this section for the fiscal year; or

''(B) $10,000,000.''.

SEC. 4. SELECTION OF CONTAMINANTS; SCHEDULE.

(a) STANDARDS.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking ''(b)(1)'' and all that follows through the end of paragraph (3) and inserting the following:

''(b) STANDARDS.—

''(1) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—

''(A) GENERAL AUTHORITY.—The Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for each contaminant (other than a contaminant referred to in paragraph (2) for which a national primary drinking water regulation has been promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1995) if the Administrator determines, based on adequate data and appropriate peer-reviewed scientific information and an assessment of health risks, conducted in accordance with sound and objective scientific practices, that—

''(i) the contaminant may have an adverse effect on the health of persons; and

''(ii) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern.

''(B) SELECTION AND LISTING OF CONTAMINANTS FOR CONSIDERATION.—

''(i) IN GENERAL.—Not later than July 1, 1997, the Administrator (after consultation with the Secretary of Health and Human Services) shall publish and periodically, but not less often than every 5 years, update a list of contaminants that are known or anticipated to occur in drinking water provided by public water systems and that may warrant regulation under this title.

''(ii) RESEARCH AND STUDY PLAN.—At such time as a list is published under clause (i), the Administrator shall describe available and needed information and research with respect to—

''(I) the health effects of the contaminants;

''(II) the occurrence of the contaminants in drinking water; and

''(III) treatment techniques and other means that may be feasible to control the contaminants.

''(iii) COMMENT.—The Administrator shall seek comment on each list and any research plan that is published from officials of State and local governments, operators of public water systems, the scientific community, and the general public.

''(C) DETERMINATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), not later than July 1, 2001, and every 5 years thereafter, the Administrator shall take one of the following actions for not fewer than 5 contaminants:

''(I) Publish a determination that information available to the Administrator does not warrant the issuance of a national primary drinking water regulation.

''(II) Publish a determination that a national primary drinking water regulation is warranted based on information available to the Administrator, and proceed to propose a maximum contaminant level goal and national primary drinking water regulation not later than 2 years after the date of publication of the determination.

''(III) Propose a maximum contaminant level goal and national primary drinking water regulation.

''(ii) INSUFFICIENT INFORMATION.—If the Administrator determines that available information is insufficient to make a determination for a contaminant under clause (i), the Administrator may publish a determination to continue to study the contaminant. Not later than 5 years after the Administrator determines that further study is necessary for a contaminant pursuant to this clause, the Administrator shall make a determination under clause (i).

''(iii) ASSESSMENT.—The determinations under clause (i) shall be based on an assessment of—

''(I) the available scientific knowledge that is consistent with the requirements of paragraph (3)(A) and useful in determining the nature and extent of adverse effects on the health of persons that may occur due to the presence of the contaminant in drinking water;

''(II) information on the occurrence of the contaminant in drinking water; and

''(III) the treatment technologies, treatment techniques, or other means that may be feasible in reducing the contaminant in drinking water provided by public water systems.

''(iv) PRIORITIES.—In making determinations under this subparagraph, the Administrator shall give priority to those contaminants not currently regulated that are associated with the most serious adverse health effects and that present the greatest potential risk to the health of persons due to the presence of the contaminant in drinking water provided by public water systems.

''(v) REVIEW.—Each document setting forth the determination for a contaminant under clause (i) shall be available for public comment at such time as the determination is published.

''(vi) JUDICIAL REVIEW.—Determinations made by the Administrator pursuant to clause (i)(I) shall be considered final agency actions for the purposes of section 1448. No determination under clause (i)(I) shall be set aside by a court pursuant to a review authorized under that section, unless the court finds that the determination is arbitrary and capricious.

''(D) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate an interim national primary drinking water regulation for a contaminant without listing the contaminant under subparagraph (B) or publishing a determination for the contaminant under subparagraph (C) to address an urgent threat to public health as determined by the Administrator after consultation with and written response to any comments provided by the Secretary of Health and Human Services, acting through the director of the Centers for Disease Control and Prevention or the director of the National Institutes of Health. A determination for any contaminant in accordance with subparagraph (C) subject to an interim regulation under this subparagraph shall be issued not later than 3 years after the date on which the regulation is promulgated and the regulation shall be repromulgated, or revised if appropriate, not later than 5 years after that date.

''(E) MONITORING DATA AND OTHER INFORMATION.—The Administrator may require, in accordance with section 1445(a)(2), the submission of monitoring data and other information necessary for the development of studies, research plans, or national primary drinking water regulations.

''(2) SCHEDULES AND DEADLINES.—

''(A) IN GENERAL.—In the case of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations—

''(i) not later than 1 year after June 19, 1986, for not fewer than 9 of the listed contaminants;

''(ii) not later than 2 years after June 19, 1986, for not fewer than 40 of the listed contaminants; and

''(iii) not later than 3 years after June 19, 1986, for the remainder of the listed contaminants.

''(B) SUBSTITUTION OF CONTAMINANTS.—If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under subparagraph (A)) than a contaminant referred to in subparagraph (A), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for the identified contaminant in lieu of regulating the contaminant referred to in subparagraph (A). Substitutions may be made for not more than 7 contaminants referred to in subparagraph (A). Regulation of a contaminant identified under this subparagraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

''(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—

''(i) INFORMATION COLLECTION RULE.—

''(I) IN GENERAL.—Not later than December 31, 1995, the Administrator shall, after notice and opportunity for public comment, promulgate an information collection rule to obtain information that will facilitate further revisions to the national primary drinking water regulation for disinfectants and disinfection byproducts, including information on microbial contaminants such as cryptosporidium.

''(II) EXTENSION.—The Administrator may extend the deadline under subclause (I) for up to 180 days if the Administrator determines that progress toward approval of an appropriate analytical method to screen for cryptosporidium is sufficiently advanced and approval is likely to be completed within the additional time period.

''(ii) ADDITIONAL DEADLINES.—The time intervals between promulgation of a final information collection rule, an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule shall be in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information Collection Rule. If a delay occurs with respect to the promulgation of any rule in the timetable established by this subparagraph, all subsequent rules shall be completed as expeditiously as practicable subject to agreement by all the parties to the negotiated rulemaking, but no later than a revised date that reflects the interval or intervals for the rules in the timetable.

''(D) PRIOR REQUIREMENTS.—The requirements of subparagraphs (C) and (D) of section 1412(b)(3) (as in effect before the amendment made by section 4(a) of the Safe Drinking Water Act Amendments of 1995), and any obligation to promulgate regulations pursuant to such subparagraphs not promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1995, are superseded by this paragraph and paragraph (1).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1412(a)(3) (42 U.S.C. 300g–1(a)(3)) is amended by striking ''paragraph (1), (2), or (3) of subsection (b)'' each place it appears and inserting ''paragraph (1) or (2) of subsection (b)''.

(2) Section 1415(d) (42 U.S.C. 300g–4(d)) is amended by striking ''section 1412(b)(3)'' and inserting ''section 1412(b)(7)(A)''.

SEC. 5. RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.

Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 4) is further amended by inserting after paragraph (2) the following:

''(3) RISK ASSESSMENT, MANAGEMENT AND COMMUNICATION.—

''(A) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this section, and, to the degree that an Agency action is based on science in carrying out this title, the Administrator shall use—

''(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

''(ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

''(B) PUBLIC INFORMATION.—In carrying out this section, the Administrator shall ensure that the presentation of information on public health effects is comprehensive, informative and understandable. The Administrator shall, in a document made available to the public in support of a regulation promulgated under this section, specify, to the extent practicable—

''(i) each population addressed by any estimate of public health effects;

''(ii) the expected risk or central estimate of risk for the specific populations;

''(iii) each appropriate upper-bound or lower-bound estimate of risk;

''(iv) each uncertainty identified in the process of the assessment of public health effects and research that would assist in resolving the uncertainty; and

''(v) peer-reviewed studies known to the Administrator that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

''(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—

''(i) MAXIMUM CONTAMINANT LEVELS.—Not later than 90 days prior to proposing any national primary drinking water regulation that includes a maximum contaminant level, the Administrator shall, with respect to a maximum contaminant level that would be considered in accordance with paragraph (4) in a proposed regulation and each alternative maximum contaminant level that would be considered in a proposed regulation pursuant to paragraph (5) or (6)(A), publish, seek public comment on, and use for the purposes of paragraphs (4), (5), and (6) an analysis of—

''(I) the health risk reduction benefits (including non-quantifiable health benefits identified and described by the Administrator, except that such benefits shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur) expected as the result of treatment to comply with each level;

''(II) the health risk reduction benefits (including non-quantifiable health benefits identified and described by the Administrator, except that such benefits shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur) expected from reductions in co-occurring contaminants that may be attributed solely to compliance with the maximum contaminant level, excluding benefits resulting from compliance with other proposed or promulgated regulations;

''(III) the costs (including non-quantifiable costs identified and described by the Administrator, except that such costs shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such costs are likely to occur) expected solely as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs and excluding costs resulting from compliance with other proposed or promulgated regulations;

''(IV) the incremental costs and benefits associated with each alternative maximum contaminant level considered;

''(V) the effects of the contaminant on the general population and on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population;

''(VI) any increased health risk that may occur as the result of compliance, including risks associated with co-occurring contaminants; and

''(VII) other relevant factors, including the quality and extent of the information, the uncertainties in the analysis supporting subclauses (I) through (VI), and factors with respect to the degree and nature of the risk.

''(ii) TREATMENT TECHNIQUES.—Not later than 90 days prior to proposing a national primary drinking water regulation that includes a treatment technique in accordance with paragraph (7)(A), the Administrator shall publish and seek public comment on an analysis of the health risk reduction benefits and costs likely to be experienced as the result of compliance with the treatment technique and alternative treatment techniques that would be considered in a proposed regulation, taking into account, as appropriate, the factors described in clause (i).

''(iii) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants.

''(iv) FORM OF NOTICE.—Whenever a national primary drinking water regulation is expected to result in compliance costs greater than $75,000,000 per year, the Administrator shall provide the notice required by clause (i) or (ii) through an advanced notice of proposed rulemaking.

''(v) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, acting through the Office of Ground Water and Drinking Water, to conduct studies, assessments, and analyses in support of regulations or the development of methods, $35,000,000 for each of fiscal years 1996 through 2003.''.

SEC. 6. STANDARD-SETTING; REVIEW OF STANDARDS.

(a) IN GENERAL.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended—

(1) in paragraph (4)—

(A) by striking ''(4) Each'' and inserting the following:

''(4) GOALS AND STANDARDS.—

''(A) MAXIMUM CONTAMINANT LEVEL GOALS.—Each'';

(B) in subparagraph (A) (as so designated), by inserting after the first sentence the following: ''The maximum contaminant level goal for contaminants that are known or likely to cause cancer in humans may be set

at a level other than zero, if the Administrator determines, based on the best available, peer-reviewed science, that there is a threshold level below which there is unlikely to be any increase in cancer risk and the Administrator sets the maximum contaminant level goal at that level with an adequate margin of safety.'';

(C) in the last sentence—

(i) by striking ''Each national'' and inserting the following:

''(B) MAXIMUM CONTAMINANT LEVELS.— Except as provided in paragraphs (5) and (6), each national''; and

(ii) by striking ''maximum level'' and inserting ''maximum contaminant level''; and

(D) by adding at the end the following:

''(C) DETERMINATION.—At the time the Administrator proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (3)(C).'';

(2) by striking ''(5) For the'' and inserting the following:

''(D) DEFINITION OF FEASIBLE.—For the'';

(3) in the second sentence of paragraph (4)(D) (as so designated), by striking ''paragraph (4)'' and inserting ''this paragraph'';

(4) by striking ''(6) Each national'' and inserting the following:

''(E) FEASIBLE TECHNOLOGIES.—Each national'';

(5) in paragraph (4)(E) (as so designated), by striking ''this paragraph'' and inserting ''this subsection''; and

(6) by inserting after paragraph (4) (as so amended) the following:

''(5) ADDITIONAL HEALTH RISK CONSIDERATIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (4), the Administrator may establish a maximum contaminant level for a contaminant at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—

''(i) increasing the concentration of other contaminants in drinking water; or

''(ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.

''(B) ESTABLISHMENT OF LEVEL.—If the Administrator establishes a maximum contaminant level or levels or requires the use of treatment techniques for any contaminant or contaminants pursuant to the authority of this paragraph—

''(i) the level or levels or treatment techniques shall minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level or levels; and

''(ii) the combination of technology, treatment techniques, or other means required to meet the level or levels shall not be more stringent than is feasible (as defined in paragraph (4)(D)).

''(6) ADDITIONAL HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (4), if the Administrator determines based on an analysis conducted under paragraph (3)(C) that the benefits of a maximum contaminant level promulgated in accordance with paragraph (4) would not justify the costs of complying with the level, the Administrator may, after notice and opportunity for public comment, promulgate a maximum contaminant level for the contaminant that maximizes health risk reduction benefits at a cost that is justified by the benefits.

''(B) EXCEPTION.—The Administrator shall not use the authority of this paragraph to promulgate a maximum contaminant level for a contaminant, if the benefits of compliance with a national primary drinking water regulation for the contaminant that would be promulgated in accordance with paragraph (4) experienced by—

''(i) persons served by large public water systems; and

''(ii) persons served by such other systems as are unlikely, based on information provided by the States, to receive a variance under section 1415(e);

would justify the costs to the systems of complying with the regulation. This subparagraph shall not apply if the contaminant is found almost exclusively in small systems (as defined in section 1415(e)).

''(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator may not use the authority of this paragraph to establish a maximum contaminant level in a Stage I or Stage II national primary drinking water regulation for contaminants that are disinfectants or disinfection byproducts (as described in paragraph (2)), or to establish a maximum contaminant level or treatment technique requirement for the control of cryptosporidium. The authority of this paragraph may be used to establish regulations for the use of disinfection by systems relying on ground water sources as required by paragraph (8).

''(D) JUDICIAL REVIEW.—A determination by the Administrator that the benefits of a maximum contaminant level or treatment requirement justify or do not justify the costs of complying with the level shall be reviewed by the court pursuant to section 1448 only as part of a review of a final national primary drinking water regulation that has been promulgated based on the determination and shall not be set aside by the court under that section, unless the court finds that the determination is arbitrary and capricious.''.

(b) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator of the Environmental Protection Agency may use the authority of section 1412(b)(5) of the Public Health Service Act (as amended by subsection (a)) to promulgate the Stage I rulemaking for disinfectants and disinfection byproducts as proposed in volume 59, Federal Register, page 38668 (July 29, 1994). Unless new information warrants a modification of the proposal as provided for in the ''Disinfection and Disinfection Byproducts Negotiated Rulemaking Committee Agreement'', nothing in such section shall be construed to require the Administrator to modify the provisions of the rulemaking as proposed.

(c) REVIEW OF STANDARDS.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking paragraph (9) and inserting the following:

''(9) REVIEW AND REVISION.—The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this title. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain or provide for greater protection of the health of persons.''.

SEC. 7. ARSENIC.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by adding at the end the following:

''(12) ARSENIC.—

''(A) SCHEDULE AND STANDARD.—Notwithstanding paragraph (2), the Administrator shall promulgate a national primary drinking water regulation for arsenic in accordance with the schedule established by this paragraph and pursuant to this subsection.

''(B) RESEARCH PLAN.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall develop a comprehensive plan for research in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. The Administrator shall consult with the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), other Federal agencies, and interested public and private entities.

''(C) RESEARCH PROJECTS.—The Administrator shall carry out the research plan, taking care to avoid duplication of other research in progress. The Administrator may enter into cooperative research agreements with other Federal agencies, State and local governments, and other interested public and private entities to carry out the research plan.

''(D) ASSESSMENT.—Not later than 3½ years after the date of enactment of this paragraph, the Administrator shall review the progress of the research to determine whether the health risks associated with exposure to low levels of arsenic are sufficiently well understood to proceed with a national primary drinking water regulation. The Administrator shall consult with the Science Advisory Board, other Federal agencies, and other interested public and private entities as part of the review.

''(E) PROPOSED REGULATION.—The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

''(F) FINAL REGULATION.—Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.''.

SEC. 8. RADON.

Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 7) is further amended by adding at the end the following:

''(13) RADON IN DRINKING WATER.—

''(A) REGULATION.—Notwithstanding paragraph (2), not later than 180 days after the date of enactment of this paragraph, the Administrator shall promulgate a national primary drinking water regulation for radon.

''(B) MAXIMUM CONTAMINANT LEVEL.—Notwithstanding any other provision of law, the regulation shall provide for a maximum contaminant level for radon of 3,000 picocuries per liter.

''(C) REVISION.—

''(i) IN GENERAL.—Subject to clause (ii), a revision to the regulation promulgated under subparagraph (A) may be made pursuant to this subsection. The revision may include a maximum contaminant level less stringent than 3,000 picocuries per liter as provided in paragraphs (4) and (9) or a maximum contaminant level more stringent than 3,000 picocuries per liter as provided in clause (ii).

''(ii) MAXIMUM CONTAMINANT LEVEL.—

''(I) CRITERIA FOR REVISION.—The Administrator shall not revise the maximum contaminant level for radon to a more stringent level than the level established under subparagraph (B) unless—

''(aa) the revision is made to reflect consideration of risks from the ingestion of radon in drinking water and episodic uses of drinking water;

''(bb) the revision is supported by peer-reviewed scientific studies conducted in accordance with sound and objective scientific practices; and

''(cc) based on the studies, the National Academy of Sciences and the Science Advisory Board, established by section 8 of the

Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), consider a revision of the maximum contaminant level to be appropriate.

''(II) AMOUNT OF REVISION.—If the Administrator determines to revise the maximum contaminant level for radon in accordance with subclause (I), the maximum contaminant level shall be revised to a level that is no more stringent than is necessary to reduce risks to human health from radon in drinking water to a level that is equivalent to risks to human health from radon in outdoor air based on the national average concentration of radon in outdoor air.''.

SEC. 9. SULFATE.

Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 8) is further amended by adding at the end the following:

''(14) SULFATE.—

''(A) ADDITIONAL RESEARCH.—Prior to promulgating a national primary drinking water regulation for sulfate the Administrator and the Director of the Centers for Disease Control shall jointly conduct additional research to establish a reliable dose-response relationship for the adverse health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The research shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices and shall be completed not later than 30 months after the date of enactment of this paragraph.

''(B) PROPOSED AND FINAL RULE.—Prior to promulgating a national primary drinking water regulation for sulfate and after consultation with interested States, the Administrator shall publish a notice of proposed rulemaking that shall supersede the proposal published in December, 1994. For purposes of the proposed and final rule, the Administrator may specify in the regulation requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means. The Administrator shall, pursuant to the authorities of this subsection and after notice and opportunity for public comment, promulgate a final national primary drinking water regulation for sulfate not later than 48 months after the date of enactment of this paragraph.

''(C) EFFECT ON OTHER LAWS.—

''(i) FEDERAL LAWS.—Notwithstanding part C, section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), subtitle C or D of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), or section 107 or 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607 and 9621(d)), no national primary drinking water regulation for sulfate shall be—

''(I) used as a standard for determining compliance with any provision of any law other than this subsection;

''(II) used as a standard for determining appropriate cleanup levels or whether cleanup should be undertaken with respect to any facility or site;

''(III) considered to be an applicable or relevant and appropriate requirement for any such cleanup; or

''(IV) used for the purpose of defining injury to a natural resource;

unless the Administrator, by rule and after notice and opportunity for public comment, determines that the regulation is appropriate for a use described in subclause (I), (II), (III), or (IV).

''(ii) STATE LAWS.—This subparagraph shall not affect any requirement of State law, including the applicability of any State standard similar to the regulation published under this paragraph as a standard for any cleanup action, compliance action, or natural resource damage action taken pursuant to such a law.''.

SEC. 10. FILTRATION AND DISINFECTION.

(a) FILTRATION CRITERIA.—Section 1412(b)(7)(C)(i) is amended by adding at the end thereof the following: ''Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall amend the criteria issued under this clause to provide that a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure significantly greater removal efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this paragraph and paragraph (8)).''.

(b) FILTRATION TECHNOLOGY FOR SMALL SYSTEMS.—Section 1412(b)(7)(C) (42 U.S.C. 300g–1(b)(7)(C)) is amended by adding at the end the following:

''(v) FILTRATION TECHNOLOGY FOR SMALL SYSTEMS.—At the same time as the Administrator proposes an Interim Enhanced Surface Water Treatment Rule pursuant to paragraph (2)(C)(ii), the Administrator shall propose a regulation that describes treatment techniques that meet the requirements for filtration pursuant to this subparagraph and are feasible for community water systems serving a population of 3,300 or fewer and noncommunity water systems.''.

(c) GROUND WATER DISINFECTION.—The first sentence of section 1412(b)(8) (42 U.S.C. 300g–1(b)(8)) is amended—

(1) by striking ''Not later than 36 months after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall propose and promulgate'' and inserting ''At any time after the end of the 3-year period that begins on the date of enactment of the Safe Drinking Water Act Amendments of 1995 but not later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)), the Administrator shall also promulgate''; and

(2) by striking the period at the end and inserting the following: '', including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 1413, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water.''.

SEC. 11. EFFECTIVE DATE FOR REGULATIONS.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking paragraph (10) and inserting the following:

''(10) EFFECTIVE DATE.—A national primary drinking water regulation promulgated under this section shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator, or a State in the case of an individual system, may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State determines that additional time is necessary for capital improvements.''.

SEC. 12. TECHNOLOGY AND TREATMENT TECHNIQUES; TECHNOLOGY CENTERS.

(a) SYSTEM TREATMENT TECHNOLOGIES.—Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 9) is further amended by adding at the end the following:

''(15) SYSTEM TREATMENT TECHNOLOGIES.—

''(A) GUIDANCE OR REGULATIONS.—

''(i) IN GENERAL.—At the same time as the Administrator promulgates a national primary drinking water regulation pursuant to this section, the Administrator shall issue guidance or regulations describing all treatment technologies for the contaminant that is the subject of the regulation that are feasible with the use of best technology, treatment techniques, or other means that the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available taking cost into consideration for public water systems serving—

''(I) a population of 10,000 or fewer but more than 3,300;

''(II) a population of 3,300 or fewer but more than 500; and

''(III) a population of 500 or fewer but more than 25.

''(ii) CONTENTS.—The guidance or regulations shall identify the effectiveness of the technology, the cost of the technology, and other factors related to the use of the technology, including requirements for the quality of source water to ensure adequate protection of human health, considering removal efficiencies of the technology, and installation and operation and maintenance requirements for the technology.

''(iii) LIMITATION.—The Administrator shall not issue guidance or regulations for a technology under this paragraph unless the technology adequately protects human health, considering the expected useful life of the technology and the source waters available to systems for which the technology is considered to be feasible.

''(B) REGULATIONS AND GUIDANCE.—Not later than 2 years after the date of enactment of this paragraph and after consultation with the States, the Administrator shall issue guidance or regulations under subparagraph (A) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph for which a variance may be granted under section 1415(e). The Administrator may, at any time after a national primary drinking water regulation has been promulgated, issue guidance or regulations describing additional or new or innovative treatment technologies that meet the requirements of subparagraph (A) for public water systems described in subparagraph (A)(i) that are subject to the regulation.

''(C) NO SPECIFIED TECHNOLOGY.—A description under subparagraph (A) of the best technology or other means available shall not be considered to require or authorize that the specified technology or other means be used for the purpose of meeting the requirements of any national primary drinking water regulation.''.

(b) TECHNOLOGIES AND TREATMENT TECHNIQUES FOR SMALL SYSTEMS.—Section 1412(b)(4)(E) (as amended by section 6(a)) is further amended by adding at the end the

following: ''The Administrator shall include in the list any technology, treatment technique, or other means that is feasible for small public water systems serving—

''(i) a population of 10,000 or fewer but more than 3,300;

''(ii) a population of 3,300 or fewer but more than 500; and

''(iii) a population of 500 or fewer but more than 25;

and that achieves compliance with the maximum contaminant level or treatment technique, including packaged or modular systems and point-of-entry or point-of-use treatment units that are owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbial contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment device, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards.''.

(c) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—Section 1445 (42 U.S.C. 300j–4) is amended by adding at the end the following:

''(g) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—For purposes of paragraphs (4)(E) and (15) of section 1412(b), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and date by which information shall be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under paragraph (4)(E) or (15) of section 1412(b).''.

(d) SMALL WATER SYSTEMS TECHNOLOGY CENTERS.—Section 1442 (42 U.S.C. 300j–1) is amended by adding at the end the following:

''(h) SMALL PUBLIC WATER SYSTEMS TECHNOLOGY ASSISTANCE CENTERS.—

''(1) GRANT PROGRAM.—The Administrator is authorized to make grants to institutions of higher learning to establish and operate not fewer than 5 small public water system technology assistance centers in the United States.

''(2) RESPONSIBILITIES OF THE CENTERS.—The responsibilities of the small public water system technology assistance centers established under this subsection shall include the conduct of research, training, and technical assistance relating to the information, performance, and technical needs of small public water systems or public water systems that serve Indian Tribes.

''(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

''(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

''(A) The small public water system technology assistance center shall be located in a State that is representative of the needs of the region in which the State is located for addressing the drinking water needs of rural small communities or Indian Tribes.

''(B) The grant recipient shall be located in a region that has experienced problems with rural water supplies.

''(C) There is available to the grant recipient for carrying out this subsection demonstrated expertise in water resources research, technical assistance, and training.

''(D) The grant recipient shall have the capability to provide leadership in making national and regional contributions to the solution of both long-range and intermediate-range rural water system technology management problems.

''(E) The grant recipient shall have a demonstrated interdisciplinary capability with expertise in small public water system technology management and research.

''(F) The grant recipient shall have a demonstrated capability to disseminate the results of small public water system technology research and training programs through an interdisciplinary continuing education program.

''(G) The projects that the grant recipient proposes to carry out under the grant are necessary and appropriate.

''(H) The grant recipient has regional support beyond the host institution.

''(I) The grant recipient shall include the participation of water resources research institutes established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

''(5) ALASKA.—For purposes of this subsection, the State of Alaska shall be considered to be a region.

''(6) CONSORTIA OF STATES.—At least 2 of the grants under this subsection shall be made to consortia of States with low population densities. In this paragraph, the term 'consortium of States with low population densities' means a consortium of States, each State of which has an average population density of less than 12.3 persons per square mile, based on data for 1993 from the Bureau of the Census.

''(7) ADDITIONAL CONSIDERATIONS.—At least one center established under this subsection shall focus primarily on the development and evaluation of new technologies and new combinations of existing technologies that are likely to provide more reliable or lower cost options for providing safe drinking water. This center shall be located in a geographic region of the country with a high density of small systems, at a university with an established record of developing and piloting small treatment technologies in cooperation with industry, States, communities, and water system associations.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this subsection $10,000,000 for each of fiscal years 1995 through 2003.''.

SEC. 13. VARIANCES AND EXEMPTIONS.

(a) TECHNOLOGY AND TREATMENT TECHNIQUES FOR SYSTEMS ISSUED VARIANCES.—The second sentence of section 1415(a)(1)(A) (42 U.S.C. 300g–4(a)(1)(A)) is amended—

(1) by striking ''only be issued to a system after the system's application of'' and inserting ''be issued to a system on condition that the system install''; and

(2) by inserting before the period at the end the following: '', and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system''.

(b) EXEMPTIONS.—Section 1416 (42 U.S.C. 300g–5) is amended—

(1) in subsection (a)(1)—

(A) by inserting after ''(which may include economic factors'' the following: '', including qualification of the public water system as a system serving a disadvantaged community pursuant to section 1473(e)(1)''; and

(B) by inserting after ''treatment technique requirement,'' the following: ''or to implement measures to develop an alternative source of water supply,'';

(2) in subsection (b)(1)(A)—

(A) by striking ''(including increments of progress)'' and inserting ''(including increments of progress or measures to develop an alternative source of water supply)''; and

(B) by striking ''requirement and treatment'' and inserting ''requirement or treatment''; and

(3) in subsection (b)(2)—

(A) by striking ''(except as provided in subparagraph (B))'' in subparagraph (A) and all that follows through ''3 years after the date of the issuance of the exemption if'' in subparagraph (B) and inserting the following: ''not later than 3 years after the otherwise applicable compliance date established in section 1412(b)(10).

''(B) No exemption shall be granted unless'';

(B) in subparagraph (B)(i), by striking ''within the period of such exemption'' and inserting ''prior to the date established pursuant to section 1412(b)(10)'';

(C) in subparagraph (B)(ii), by inserting after ''such financial assistance'' the following: ''or assistance pursuant to part G, or any other Federal or State program is reasonably likely to be available within the period of the exemption'';

(D) in subparagraph (C)—

(i) by striking ''500 service connections'' and inserting ''a population of 3,300''; and

(ii) by inserting '', but not to exceed a total of 6 years,'' after ''for one or more additional 2-year periods''; and

(E) by adding at the end the following:

''(D) LIMITATION.—A public water system may not receive an exemption under this section if the system was granted a variance under section 1415(e).''.

SEC. 14. SMALL SYSTEMS; TECHNICAL ASSISTANCE.

(a) SMALL SYSTEM VARIANCES.—Section 1415 (42 U.S.C. 300g–4) is amended by adding at the end the following:

''(e) SMALL SYSTEM VARIANCES.—

''(1) IN GENERAL.—The Administrator (or a State with primary enforcement responsibility for public water systems under section 1413) may grant to a public water system serving a population of 10,000 or fewer (referred to in this subsection as a 'small system') a variance under this subsection for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a national primary drinking water regulation, if the variance meets each requirement of this subsection.

''(2) AVAILABILITY OF VARIANCES.—A small system may receive a variance under this subsection if the system installs, operates, and maintains, in accordance with guidance or regulations issued by the Administrator, treatment technology that is feasible for small systems as determined by the Administrator pursuant to section 1412(b)(15).

''(3) CONDITIONS FOR GRANTING VARIANCES.—A variance under this subsection shall be available only to a system—

''(A) that cannot afford to comply, in accordance with affordability criteria established by the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413), with a national primary drinking water regulation, including compliance through—

''(i) treatment;

''(ii) alternative source of water supply; or

''(iii) restructuring or consolidation (unless the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) makes a written determination that restructuring or consolidation is not feasible or appropriate based on other specified public policy considerations); and

''(B) for which the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) determines that the terms of the variance ensure adequate protection of human health, considering the quality of the source water for the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

''(4) APPLICATIONS.—An application for a variance for a national primary drinking water regulation under this subsection shall be submitted to the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) not later than the date that is the later of—

''(A) 3 years after the date of enactment of this subsection; or

''(B) 1 year after the compliance date of the national primary drinking water regulation as established under section 1412(b)(10) for which a variance is requested.

''(5) VARIANCE REVIEW AND DECISION.—

''(A) TIMETABLE.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall grant or deny a variance not later than 1 year after the date of receipt of the application.

''(B) PENALTY MORATORIUM.—Each public water system that submits a timely application for a variance under this subsection shall not be subject to a penalty in an enforcement action under section 1414 for a violation of a maximum contaminant level or treatment technique in the national primary drinking water regulation with respect to which the variance application was submitted prior to the date of a decision to grant or deny the variance.

''(6) COMPLIANCE SCHEDULES.—

''(A) VARIANCES.—A variance granted under this subsection shall require compliance with the conditions of the variance not later than 3 years after the date on which the variance is granted, except that the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) may allow up to 2 additional years to comply with a treatment technique, secure an alternative source of water, or restructure if the Administrator (or the State) determines that additional time is necessary for capital improvements, or to allow for financial assistance provided pursuant to part G or any other Federal or State program.

''(B) DENIED APPLICATIONS.—If the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) denies a variance application under this subsection, the public water system shall come into compliance with the requirements of the national primary drinking water regulation for which the variance was requested not later than 4 years after the date on which the national primary drinking water regulation was promulgated.

''(7) DURATION OF VARIANCES.—

''(A) IN GENERAL.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall review each variance granted under this subsection not less often than every 5 years after the compliance date established in the variance to determine whether the system remains eligible for the variance and is conforming to each condition of the variance.

''(B) REVOCATION OF VARIANCES.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall revoke a variance in effect under this subsection if the Administrator (or the State) determines that—

''(i) the system is no longer eligible for a variance;

''(ii) the system has failed to comply with any term or condition of the variance, other than a reporting or monitoring requirement, unless the failure is caused by circumstances outside the control of the system; or

''(iii) the terms of the variance do not ensure adequate protection of human health, considering the quality of source water available to the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

''(8) INELIGIBILITY FOR VARIANCES.—A variance shall not be available under this subsection for—

''(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drinking water regulation was promulgated prior to January 1, 1986; or

''(B) a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

''(9) REGULATIONS AND GUIDANCE.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection and in consultation with the States, the Administrator shall promulgate regulations for variances to be granted under this subsection. The regulations shall, at a minimum, specify—

''(i) procedures to be used by the Administrator or a State to grant or deny variances, including requirements for notifying the Administrator and consumers of the public water system applying for a variance and requirements for a public hearing on the variance before the variance is granted;

''(ii) requirements for the installation and proper operation of treatment technology that is feasible (pursuant to section 1412(b)(15)) for small systems and the financial and technical capability to operate the treatment system, including operator training and certification;

''(iii) eligibility criteria for a variance for each national primary drinking water regulation, including requirements for the quality of the source water (pursuant to section 1412(b)(15)(A)); and

''(iv) information requirements for variance applications.

''(B) AFFORDABILITY CRITERIA.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator, in consultation with the States and the Rural Utilities Service of the Department of Agriculture, shall publish information to assist the States in developing affordability criteria. The affordability criteria shall be reviewed by the States not less often than every 5 years to determine if changes are needed to the criteria.

''(10) REVIEW BY THE ADMINISTRATOR.—

''(A) IN GENERAL.—The Administrator shall periodically review the program of each State that has primary enforcement responsibility for public water systems under section 1413 with respect to variances to determine whether the variances granted by the State comply with the requirements of this subsection. With respect to affordability, the determination of the Administrator shall be limited to whether the variances granted by the State comply with the affordability criteria developed by the State.

''(B) NOTICE AND PUBLICATION.—If the Administrator determines that variances granted by a State are not in compliance with affordability criteria developed by the State and the requirements of this subsection, the Administrator shall notify the State in writing of the deficiencies and make public the determination.

''(C) OBJECTIONS TO VARIANCES.—

''(i) BY THE ADMINISTRATOR.—The Administrator may review and object to any variance proposed to be granted by a State, if the objection is communicated to the State not later than 90 days after the State proposes to grant the variance. If the Administrator objects to the granting of a variance, the Administrator shall notify the State in writing of each basis for the objection and propose a modification to the variance to resolve the concerns of the Administrator. The State shall make the recommended modification or respond in writing to each objection. If the State issues the variance without resolving the concerns of the Administrator, the Administrator may overturn the State decision to grant the variance if the Administrator determines that the State decision does not comply with this subsection.

''(ii) PETITION BY CONSUMERS.—Not later than 30 days after a State with primary enforcement responsibility for public water systems under section 1413 proposes to grant a variance for a public water system, any person served by the system may petition the Administrator to object to the granting of a variance. The Administrator shall respond to the petition not later than 60 days after the receipt of the petition. The State shall not grant the variance during the 60-day period. The petition shall be based on comments made by the petitioner during public review of the variance by the State.''.

(b) TECHNICAL ASSISTANCE.—Section 1442(g) (42 U.S.C. 300j–1(g)) is amended—

(1) in the second sentence, by inserting ''and multi-State regional technical assistance'' after '' 'circuit-rider' ''; and

(2) by striking the third sentence and inserting the following: ''The Administrator shall ensure that funds made available for technical assistance pursuant to this subsection are allocated among the States equally. Each nonprofit organization receiving assistance under this subsection shall consult with the State in which the assistance is to be expended or otherwise made available before using the assistance to undertake activities to carry out this subsection. There are authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 1992 through 2003.''.

SEC. 15. CAPACITY DEVELOPMENT; FINANCE CENTERS.

Part B (42 U.S.C. 300g et seq.) is amended by adding at the end the following:

''CAPACITY DEVELOPMENT

''SEC. 1418. (a) STATE AUTHORITY FOR NEW SYSTEMS.—Each State shall obtain the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1998, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

''(b) SYSTEMS IN SIGNIFICANT NONCOMPLIANCE.—

''(1) LIST.—Beginning not later than 1 year after the date of enactment of this section, each State shall prepare, periodically update, and submit to the Administrator a list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance with this title (as defined in guidelines

issued prior to the date of enactment of this section or any revisions of the guidelines that have been made in consultation with the States) and, to the extent practicable, the reasons for noncompliance.

''(2) REPORT.—Not later than 5 years after the date of enactment of this section and as part of the capacity development strategy of the State, each State shall report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in assisting the public water systems listed under paragraph (1) to improve technical, managerial, and financial capacity.

''(c) CAPACITY DEVELOPMENT STRATEGY.—

''(1) IN GENERAL.—Not later than 4 years after the date of enactment of this section, each State shall develop and implement a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

''(2) CONTENT.—In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

''(A) the methods or criteria that the State will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

''(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

''(C) a description of how the State will use the authorities and resources of this title or other means to—

''(i) assist public water systems in complying with national primary drinking water regulations;

''(ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

''(iii) assist public water systems in the training and certification of operators;

''(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law; and

''(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments, private and nonprofit public water systems, and public water system customers).

''(3) REPORT.—Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this title in the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State.

''(d) FEDERAL ASSISTANCE.—

''(1) IN GENERAL.—The Administrator shall support the States in developing capacity development strategies.

''(2) INFORMATIONAL ASSISTANCE.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall—

''(i) conduct a review of State capacity development efforts in existence on the date of enactment of this section and publish information to assist States and public water systems in capacity development efforts; and

''(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

''(B) PUBLICATION OF INFORMATION.—The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after the date of enactment of this section.

''(3) VARIANCES AND EXEMPTIONS.—Based on information obtained under subsection (c)(2)(B), the Administrator shall, as appropriate, modify regulations concerning variances and exemptions for small public water systems to ensure flexibility in the use of the variances and exemptions. Nothing in this paragraph shall be interpreted, construed, or applied to affect or alter the requirements of section 1415 or 1416.

''(4) PROMULGATION OF DRINKING WATER REGULATIONS.—In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

''(5) GUIDANCE FOR NEW SYSTEMS.—Not later than 2 years after the date of enactment of this section, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

''(e) ENVIRONMENTAL FINANCE CENTERS.—

''(1) IN GENERAL.—The Administrator shall support the network of university-based Environmental Finance Centers in providing training and technical assistance to State and local officials in developing capacity of public water systems.

''(2) NATIONAL CAPACITY DEVELOPMENT CLEARINGHOUSE.—Within the Environmental Finance Center network in existence on the date of enactment of this section, the Administrator shall establish a national public water systems capacity development clearinghouse to receive, coordinate, and disseminate research and reports on projects funded under this title and from other sources with respect to developing, improving, and maintaining technical, financial, and managerial capacity at public water systems to Federal and State agencies, universities, water suppliers, and other interested persons.

''(3) CAPACITY DEVELOPMENT TECHNIQUES.—

''(A) IN GENERAL.—The Environmental Finance Centers shall develop and test managerial, financial, and institutional techniques—

''(i) to ensure that new public water systems have the technical, managerial, and financial capacity before commencing operation;

''(ii) to identify public water systems in need of capacity development; and

''(iii) to bring public water systems with a history of significant noncompliance with national primary drinking water regulations into compliance.

''(B) TECHNIQUES.—The techniques may include capacity assessment methodologies, manual and computer-based public water system rate models and capital planning models, public water system consolidation procedures, and regionalization models.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (e) $2,500,000 for each of fiscal years 1995 through 2003.''.

SEC. 16. OPERATOR AND LABORATORY CERTIFICATION.

Section 1442 (42 U.S.C. 300j–1) is amended by inserting after subsection (d) the following:

''(e) CERTIFICATION OF OPERATORS AND LABORATORIES.—

''(1) REQUIREMENT.—Beginning 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995—

''(A) no assistance may be provided to a public water system under part G unless the system has entered into an enforceable commitment with the State providing that any person who operates the system will be trained and certified according to requirements established by the Administrator or the State (in the case of a State with primary enforcement responsibility under section 1413) not later than the date of completion of the capital project for which the assistance is provided; and

''(B) a public water system that has received assistance under part G may be operated only by a person who has been trained and certified according to requirements established by the Administrator or the State (in the case of a State with primary enforcement responsibility under section 1413).

''(2) GUIDELINES.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995 and after consultation with the States, the Administrator shall publish information to assist States in carrying out paragraph (1). In the case of a State with primary enforcement responsibility under section 1413 or any other State that has established a training program that is consistent with the guidance issued under this paragraph, the authority to prescribe the appropriate level of training for certification for all systems shall be solely the responsibility of the State. The guidance issued under this paragraph shall also include information to assist States in certifying laboratories engaged in testing for the purpose of compliance with sections 1445 and 1401(1).

''(3) NONCOMPLIANCE.—If a public water system in a State is not operated in accordance with paragraph (1), the Administrator is authorized to withhold from funds that would otherwise be allocated to the State under section 1472 or require the repayment of an amount equal to the amount of any assistance under part G provided to the public water system.''.

SEC. 17. SOURCE WATER QUALITY PROTECTION PARTNERSHIPS.

Part B (42 U.S.C. 300g et seq.) (as amended by section 15) is further amended by adding at the end the following:

''SOURCE WATER QUALITY PROTECTION PARTNERSHIP PROGRAM

''SEC. 1419. (a) SOURCE WATER AREA DELINEATIONS.—Except as provided in subsection (c), not later than 5 years after the date of enactment of this section, and after an opportunity for public comment, each State shall—

''(1) delineate (directly or through delegation) the source water protection areas for community water systems in the State using hydrogeologic information considered to be reasonably available and appropriate by the State; and

''(2) conduct, to the extent practicable, vulnerability assessments in source water areas determined to be a priority by the State, including, to the extent practicable, identification of risks in source water protection areas to drinking water.

''(b) ALTERNATIVE DELINEATIONS AND VULNERABILITY ASSESSMENTS.—For the purposes of satisfying the requirements of subsection (a), a State may use delineations and vulnerability assessments conducted for—

''(1) ground water sources under a State wellhead protection program developed pursuant to section 1428;

''(2) surface or ground water sources under a State pesticide management plan developed pursuant to the Pesticide and Ground

Water State Management Plan Regulation (subparts I and J of part 152 of title 40, Code of Federal Regulations), promulgated under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(d)); or

''(3) surface water sources under a State watershed initiative or to satisfy the watershed criterion for determining if filtration is required under the Surface Water Treatment Rule (section 141.70 of title 40, Code of Federal Regulations).

''(c) FUNDING.—To carry out the delineations and assessments described in subsection (a), a State may use funds made available for that purpose pursuant to section 1473(f). If funds available under that section are insufficient to meet the minimum requirements of subsection (a), the State shall establish a priority-based schedule for the delineations and assessments within available resources.

''(d) PETITION PROGRAM.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—A State may establish a program under which an owner or operator of a community water system in the State, or a municipal or local government or political subdivision of a government in the State, may submit a source water quality protection partnership petition to the State requesting that the State assist in the local development of a voluntary, incentive-based partnership, among the owner, operator, or government and other persons likely to be affected by the recommendations of the partnership, to—

''(i) reduce the presence in drinking water of contaminants that may be addressed by a petition by considering the origins of the contaminants, including to the maximum extent practicable the specific activities that affect the drinking water supply of a community;

''(ii) obtain financial or technical assistance necessary to facilitate establishment of a partnership, or to develop and implement recommendations of a partnership for the protection of source water to assist in the provision of drinking water that complies with national primary drinking water regulations with respect to contaminants addressed by a petition; and

''(iii) develop recommendations regarding voluntary and incentive-based strategies for the long-term protection of the source water of community water systems.

''(B) STATE DETERMINATION.—Not later than 1 year after the date of enactment of this section, each State shall provide public notice and solicit public comment on the question of whether to develop a source water quality protection partnership petition program in the State, and publicly announce the determination of the State thereafter. If so requested by any public water system or local governmental entity, prior to making the determination, the State shall hold at least one public hearing to assess the level of interest in the State for development and implementation of a State source water quality partnership petition program.

''(C) FUNDING.—Each State may—

''(i) use funds set aside pursuant to section 1473(f) by the State to carry out a program described in subparagraph (A), including assistance to voluntary local partnerships for the development and implementation of partnership recommendations for the protection of source water such as source water quality assessment, contingency plans, and demonstration projects for partners within a source water area delineated under subsection (a); and

''(ii) provide assistance in response to a petition submitted under this subsection using funds referred to in subsections (e)(2)(B) and (g).

''(2) OBJECTIVES.—The objectives of a petition submitted under this subsection shall be to—

''(A) facilitate the local development of voluntary, incentive-based partnerships among owners and operators of community water systems, governments, and other persons in source water areas; and

''(B) obtain assistance from the State in directing or redirecting resources under Federal or State water quality programs to implement the recommendations of the partnerships to address the origins of drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities) that affect the drinking water supply of a community.

''(3) CONTAMINANTS ADDRESSED BY A PETITION.—A petition submitted to a State under this section may address only those contaminants—

''(A) that are pathogenic organisms for which a national primary drinking water regulation has been established or is required under section 1412(b)(2)(C); or

''(B) for which a national primary drinking water regulation has been promulgated or proposed and—

''(i) that are detected in the community water system for which the petition is submitted at levels above the maximum contaminant level; or

''(ii) that are detected by adequate monitoring methods at levels that are not reliably and consistently below the maximum contaminant level.

''(4) CONTENTS.—A petition submitted under this subsection shall, at a minimum—

''(A) include a delineation of the source water area in the State that is the subject of the petition;

''(B) identify, to the maximum extent practicable, the origins of the drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) in the source water area delineated under subparagraph (A);

''(C) identify any deficiencies in information that will impair the development of recommendations by the voluntary local partnership to address drinking water contaminants that may be addressed by a petition;

''(D) specify the efforts made to establish the voluntary local partnership and obtain the participation of—

''(i) the municipal or local government or other political subdivision of the State with jurisdiction over the source water area delineated under subparagraph (A); and

''(ii) each person in the source water area delineated under subparagraph (A)—

''(I) who is likely to be affected by recommendations of the voluntary local partnership; and

''(II) whose participation is essential to the success of the partnership;

''(E) outline how the voluntary local partnership has or will, during development and implementation of recommendations of the voluntary local partnership, identify, recognize and take into account any voluntary or other activities already being undertaken by persons in the source water area delineated under subparagraph (A) under Federal or State law to reduce the likelihood that contaminants will occur in drinking water at levels of public health concern; and

''(F) specify the technical, financial, or other assistance that the voluntary local partnership requests of the State to develop the partnership or to implement recommendations of the partnership.

''(e) APPROVAL OR DISAPPROVAL OF PETITIONS.—

''(1) IN GENERAL.—After providing notice and an opportunity for public comment on a petition submitted under subsection (d), the State shall approve or disapprove the petition, in whole or in part, not later than 120 days after the date of submission of the petition.

''(2) APPROVAL.—The State may approve a petition if the petition meets the requirements established under subsection (d). The notice of approval shall, at a minimum, include—

''(A) an identification of technical, financial, or other assistance that the State will provide to assist in addressing the drinking water contaminants that may be addressed by a petition based on—

''(i) the relative priority of the public health concern identified in the petition with respect to the other water quality needs identified by the State;

''(ii) any necessary coordination that the State will perform of the program established under this section with programs implemented or planned by other States under this section; and

''(iii) funds available (including funds available from a State revolving loan fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or part G and the appropriate distribution of the funds to assist in implementing the recommendations of the partnership;

''(B) a description of technical or financial assistance pursuant to Federal and State programs that is available to assist in implementing recommendations of the partnership in the petition, including—

''(i) any program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(ii) the program established under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b);

''(iii) the agricultural water quality protection program established under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);

''(iv) the sole source aquifer protection program established under section 1427;

''(v) the community wellhead protection program established under section 1428;

''(vi) any pesticide or ground water management plan;

''(vii) any voluntary agricultural resource management plan or voluntary whole farm or whole ranch management plan developed and implemented under a process established by the Secretary of Agriculture; and

''(viii) any abandoned well closure program; and

''(C) a description of activities that will be undertaken to coordinate Federal and State programs to respond to the petition.

''(3) DISAPPROVAL.—If the State disapproves a petition submitted under subsection (d), the State shall notify the entity submitting the petition in writing of the reasons for disapproval. A petition may be resubmitted at any time if—

''(A) new information becomes available;

''(B) conditions affecting the source water that is the subject of the petition change; or

''(C) modifications are made in the type of assistance being requested.

''(f) ELIGIBILITY FOR WATER QUALITY PROTECTION ASSISTANCE.—A sole source aquifer plan developed under section 1427, a wellhead protection plan developed under section 1428, and a source water quality protection measure assisted in response to a petition submitted under subsection (d) shall be eligible for assistance under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including assistance provided under section 319 and title VI of such Act (33 U.S.C. 1329 and

1381 et seq.), if the project, measure, or practice would be eligible for assistance under such Act. In the case of funds made available under such section 319 to assist a source water quality protection measure in response to a petition submitted under subsection (d), the funds may be used only for a measure that addresses nonpoint source pollution.

''(g) GRANTS TO SUPPORT STATE PROGRAMS.—

''(1) IN GENERAL.—The Administrator may make a grant to each State that establishes a program under this section that is approved under paragraph (2). The amount of each grant shall not exceed 50 percent of the cost of administering the program for the year in which the grant is available.

''(2) APPROVAL.—In order to receive grant assistance under this subsection, a State shall submit to the Administrator for approval a plan for a source water quality protection partnership program that is consistent with the guidance published under paragraph (3). The Administrator shall approve the plan if the plan is consistent with the guidance published under paragraph (3).

''(3) GUIDANCE.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator, in consultation with the States, shall publish guidance to assist—

''(i) States in the development of a source water quality protection partnership program; and

''(ii) municipal or local governments or political subdivisions of the governments and community water systems in the development of source water quality protection partnerships and in the assessment of source water quality.

''(B) CONTENTS OF THE GUIDANCE.—The guidance shall, at a minimum—

''(i) recommend procedures for the approval or disapproval by a State of a petition submitted under subsection (d);

''(ii) recommend procedures for the submission of petitions developed under subsection (d);

''(iii) recommend criteria for the assessment of source water areas within a State;

''(iv) describe technical or financial assistance pursuant to Federal and State programs that is available to address the contamination of sources of drinking water and to develop and respond to petitions submitted under subsection (d); and

''(v) specify actions taken by the Administrator to ensure the coordination of the programs referred to in clause (iv) with the goals and objectives of this title to the maximum extent practicable.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for fiscal years 1995 through 2003. Each State with a plan for a program approved under paragraph (2) shall receive an equitable portion of the funds available for any fiscal year.

''(h) STATUTORY CONSTRUCTION.—Nothing in this section—

''(1)(A) creates or conveys new authority to a State, political subdivision of a State, or community water system for any new regulatory measure; or

''(B) limits any authority of a State, political subdivision, or community water system; or

''(2) precludes a community water system, municipal or local government, or political subdivision of a government from locally developing and carrying out a voluntary, incentive-based, source water quality protection partnership to address the origins of drinking water contaminants of public health concern.''.

SEC. 18. STATE PRIMACY; STATE FUNDING.

(a) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 1413 (42 U.S.C. 300g–2) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under section 1412 not later than 2 years after the date on which the regulations are promulgated by the Administrator except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified;''; and

(2) by adding at the end the following:

''(c) INTERIM PRIMARY ENFORCEMENT AUTHORITY.—A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) and ending at such time as the Administrator makes a determination under subsection (b)(2) with respect to the regulation.''.

(b) PUBLIC WATER SYSTEM SUPERVISION PROGRAM.—Section 1443(a) (42 U.S.C. 300j–2(a)) is amended—

(1) in paragraph (3)—

(A) by striking ''(3) A grant'' and inserting the following:

''(3) AMOUNT OF GRANT.—

''(A) IN GENERAL.—A grant''; and

(B) by adding at the end the following:

''(B) DETERMINATION OF COSTS.—To determine the costs of a grant recipient pursuant to this paragraph, the Administrator shall, in cooperation with the States and not later than 180 days after the date of enactment of this subparagraph, establish a resource model for the public water system supervision program and review and revise the model as necessary.

''(C) STATE COST ADJUSTMENTS.—The Administrator shall revise cost estimates used in the resource model for any particular State to reflect costs more likely to be experienced in that State, if—

''(i) the State requests the modification; and

''(ii) the revised estimates ensure full and effective administration of the public water system supervision program in the State and the revised estimates do not overstate the resources needed to administer the program.'';

(2) in paragraph (7), by adding at the end a period and the following:

''For the purpose of making grants under paragraph (1), there are authorized to be appropriated such sums as are necessary for each of fiscal years 1992 and 1993 and $100,000,000 for each of fiscal years 1994 through 2003.''; and

(3) by adding at the end the following:

''(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State public water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection, an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

''(9) STATE LOAN FUNDS.—

''(A) RESERVATION OF FUNDS.—For any fiscal year for which the amount made available to the Administrator by appropriations to carry out this subsection is less than the amount that the Administrator determines is necessary to supplement funds made available pursuant to paragraph (8) to ensure the full and effective administration of a public water system supervision program in a State (based on the resource model developed under paragraph (3)(B)), the Administrator may reserve from the funds made available to the State under section 1472 an amount that is equal to the amount of the shortfall.

''(B) DUTY OF ADMINISTRATOR.—If the Administrator reserves funds from the allocation of a State under subparagraph (A), the Administrator shall carry out in the State—

''(i) each of the activities that would be required of the State if the State had primary enforcement authority under section 1413; and

''(ii) each of the activities required of the State by this title, other than part C, but not made a condition of the authority.''.

SEC. 19. MONITORING AND INFORMATION GATHERING.

(a) REGULATED CONTAMINANTS.—

(1) REVIEW OF EXISTING REQUIREMENTS.—Section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) is amended—

(A) by designating the first and second sentences as subparagraphs (A) and (B), respectively; and

(B) by adding at the end the following:

''(C) REVIEW.—The Administrator shall not later than 2 years after the date of enactment of this subparagraph, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not fewer than 12 contaminants identified by the Administrator, and promulgate any necessary modifications.''.

(2) ALTERNATIVE MONITORING PROGRAMS.—Section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as amended by paragraph (1)(B)) is further amended by adding at the end the following:

''(D) STATE-ESTABLISHED REQUIREMENTS.—

''(i) IN GENERAL.—Each State with primary enforcement responsibility under section 1413 may, by rule, establish alternative monitoring requirements for any national primary drinking water regulation, other than a regulation applicable to a microbial contaminant (or an indicator of a microbial contaminant). The alternative monitoring requirements established by a State under this clause may not take effect for any national primary drinking water regulation until after completion of at least 1 full cycle of monitoring in the State satisfying the requirements of paragraphs (1) and (2) of section 1413(a). The alternative monitoring requirements may be applicable to public water systems or classes of public water systems identified by the State, in lieu of the monitoring requirements that would otherwise be applicable under the regulation, if the alternative monitoring requirements—

''(I) are based on use of the best available science conducted in accordance with sound and objective scientific practices and data collected by accepted methods;

''(II) are based on the potential for the contaminant to occur in the source water based on use patterns and other relevant characteristics of the contaminant or the systems subject to the requirements;

''(III) in the case of a public water system or class of public water systems in which a

contaminant has been detected at quantifiable levels that are not reliably and consistently below the maximum contaminant level, include monitoring frequencies that are not less frequent than the frequencies required in the national primary drinking water regulation for the contaminant for a period of 5 years after the detection; and

''(IV) in the case of each contaminant formed in the distribution system, are not applicable to public water systems for which treatment is necessary to comply with the national primary drinking water regulation.

''(ii) COMPLIANCE AND ENFORCEMENT.—The alternative monitoring requirements established by the State shall be adequate to ensure compliance with, and enforcement of, each national primary drinking water regulation. The State may review and update the alternative monitoring requirements as necessary.

''(iii) APPLICATION OF SECTION 1413.—

''(I) IN GENERAL.—Each State establishing alternative monitoring requirements under this subparagraph shall submit the rule to the Administrator as provided in section 1413(b)(1). Any requirements for a State to provide information supporting a submission shall be defined only in consultation with the States, and shall address only such information as is necessary to make a decision to approve or disapprove an alternative monitoring rule in accordance with the following sentence. The Administrator shall approve an alternative monitoring rule submitted under this clause for the purposes of section 1413, unless the Administrator determines in writing that the State rule for alternative monitoring does not ensure compliance with, and enforcement of, the national primary drinking water regulation for the contaminant or contaminants to which the rule applies.

''(II) EXCEPTIONS.—The requirements of section 1413(a)(1) that a rule be no less stringent than the national primary drinking water regulation for the contaminant or contaminants to which the rule applies shall not apply to the decision of the Administrator to approve or disapprove a rule submitted under this clause. Notwithstanding the requirements of section 1413(b)(2), the Administrator shall approve or disapprove a rule submitted under this clause within 180 days of submission. In the absence of a determination to disapprove a rule made by the Administrator within 180 days, the rule shall be deemed to be approved under section 1413(b)(2).

''(III) ADDITIONAL CONSIDERATIONS.—A State shall be considered to have primary enforcement authority with regard to an alternative monitoring rule, and the rule shall be effective, on a date (determined by the State) any time on or after submission of the rule, consistent with section 1413(c). A decision by the Administrator to disapprove an alternative monitoring rule under section 1413 or to withdraw the authority of the State to carry out the rule under clause (iv) may not be the basis for withdrawing primary enforcement responsibility for a national primary drinking water regulation or regulations from the State under section 1413.

''(iv) OVERSIGHT BY THE ADMINISTRATOR.—The Administrator shall review, not less often than every 5 years, any alternative monitoring requirements established by a State under clause (i) to determine whether the requirements are adequate to ensure compliance with, and enforcement of, national primary drinking water regulations. If the Administrator determines that the alternative monitoring requirements of a State are inadequate with respect to a contaminant, and after providing the State with an opportunity to respond to the determination of the Administrator and to correct any inadequacies, the Administrator may withdraw the authority of the State to carry out the alternative monitoring requirements with respect to the contaminant. If the Administrator withdraws the authority, the monitoring requirements contained in the national primary drinking water regulation for the contaminant shall apply to public water systems in the State.

''(v) NONPRIMACY STATES.—The Governor of any State that does not have primary enforcement responsibility under section 1413 on the date of enactment of this clause may submit to the Administrator a request that the Administrator modify the monitoring requirements established by the Administrator and applicable to public water systems in that State. After consultation with the Governor, the Administrator shall modify the requirements for public water systems in that State if the request of the Governor is in accordance with each of the requirements of this subparagraph that apply to alternative monitoring requirements established by States that have primary enforcement responsibility. A decision by the Administrator to approve a request under this clause shall be for a period of 3 years and may subsequently be extended for periods of 5 years.

''(vi) GUIDANCE.—The Administrator shall issue guidance in consultation with the States that States may use to develop State-established requirements pursuant to this subparagraph and subparagraph (E). The guidance shall identify options for alternative monitoring designs that meet the criteria identified in clause (i) and the requirements of clause (ii).''.

(3) SMALL SYSTEM MONITORING.—Section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as amended by paragraph (2)) is further amended by adding at the end the following:

''(E) SMALL SYSTEM MONITORING.—The Administrator or a State that has primary enforcement responsibility under section 1413 may modify the monitoring requirements for any contaminant, other than a microbial contaminant or an indicator of a microbial contaminant, a contaminant regulated on the basis of an acute health effect, or a contaminant formed in the treatment process or in the distribution system, to provide that any public water system that serves a population of 10,000 or fewer shall not be required to conduct additional quarterly monitoring during any 3-year period for a specific contaminant if monitoring conducted at the beginning of the period for the contaminant fails to detect the presence of the contaminant in the water supplied by the public water system, and the Administrator or the State determines that the contaminant is unlikely to be detected by further monitoring in the period.''.

(b) UNREGULATED CONTAMINANTS.—Section 1445(a) (42 U.S.C. 300j–4(a)) is amended by striking paragraphs (2) through (8) and inserting the following:

''(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

''(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found.

''(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

''(i) INITIAL LIST.—Not later than 3 years after the date of enactment of the Safe Drinking Water Amendments of 1995 and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph (A) of not more than 20 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base maintained pursuant to paragraph (3).

''(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which monitoring is required under this paragraph each contaminant recommended in a petition signed by the Governor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

''(C) MONITORING BY LARGE SYSTEMS.—A public water system that serves a population of more than 10,000 shall conduct monitoring for all contaminants listed under subparagraph (B).

''(D) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—

''(i) IN GENERAL.—Based on the regulations promulgated by the Administrator, each State shall develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serve a population of 10,000 or fewer. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations in the State.

''(ii) GRANTS FOR SMALL SYSTEM COSTS.—From funds reserved under section 1478(c), the Administrator shall pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring under the plan.

''(E) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

''(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

''(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (h) in lieu of monitoring for particular contaminants under this paragraph.

''(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 1995 through 2003.''.

(c) NATIONAL DRINKING WATER OCCURRENCE DATABASE.—Section 1445(a) (42 U.S.C. 300j–4(a)) (as amended by subsection (b)) is further amended by adding at the end the following:

''(3) NATIONAL DRINKING WATER OCCURRENCE DATABASE.—

''(A) IN GENERAL.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall assemble and maintain a national drinking water occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under paragraph (2) and reliable information from other public and private sources.

''(B) USE.—The data shall be used by the Administrator in making determinations under section 1412(b)(1) with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

''(C) PUBLIC RECOMMENDATIONS.—The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with

respect to contaminants that should be included in the national drinking water occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under paragraph (2). Any recommendation submitted under this clause shall be accompanied by reasonable documentation that—

''(i) the contaminant occurs or is likely to occur in drinking water; and

''(ii) the contaminant poses a risk to public health.

''(D) PUBLIC AVAILABILITY.—The information from the data base shall be available to the public in readily accessible form.

''(E) REGULATED CONTAMINANTS.—With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

''(F) UNREGULATED CONTAMINANTS.—With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

''(i) monitoring information collected by public water systems that serve a population of more than 10,000, as required by the Administrator under paragraph (2);

''(ii) monitoring information collected by the States from a representative sampling of public water systems that serve a population of 10,000 or fewer; and

''(iii) other reliable and appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.''.

(d) INFORMATION.—

(1) MONITORING AND TESTING AUTHORITY.—Subparagraph (A) of section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as designated by subsection (a)(1)(A)) is amended—

(A) by inserting ''by accepted methods'' after ''conduct such monitoring''; and

(B) by striking ''such information as the Administrator may reasonably require'' and all that follows through the period at the end and inserting the following: ''such information as the Administrator may reasonably require—

''(i) to assist the Administrator in establishing regulations under this title or to assist the Administrator in determining, on a case-by-case basis, whether the person has acted or is acting in compliance with this title; and

''(ii) by regulation to assist the Administrator in determining compliance with national primary drinking water regulations promulgated under section 1412 or in administering any program of financial assistance under this title.

If the Administrator is requiring monitoring for purposes of testing new or alternative methods, the Administrator may require the use of other than accepted methods. Information requirements imposed by the Administrator pursuant to the authority of this subparagraph that require monitoring, the establishment or maintenance of records or reporting, by a substantial number of public water systems (determined in the sole discretion of the Administrator), shall be established by regulation as provided in clause (ii).''.

(2) SCREENING METHODS.—Section 1445 (42 U.S.C. 300j–4) (as amended by section 12(c)) is further amended by adding at the end the following:

''(h) SCREENING METHODS.—The Administrator shall review new analytical methods to screen for regulated contaminants and may approve such methods as are more accurate or cost-effective than established reference methods for use in compliance monitoring.''.

SEC. 20. PUBLIC NOTIFICATION.

Section 1414 (42 U.S.C. 300g–3) is amended by striking subsection (c) and inserting the following:

''(c) NOTICE TO PERSONS SERVED.—

''(1) IN GENERAL.—Each owner or operator of a public water system shall give notice to the persons served by the system—

''(A) of any failure on the part of the public water system to—

''(i) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation; or

''(ii) perform monitoring required by section 1445(a);

''(B) if the public water system is subject to a variance granted under section 1415(a)(1)(A), 1415(a)(2), or 1415(e) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

''(i) the existence of the variance or exemption; and

''(ii) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption; and

''(C) of the concentration level of any unregulated contaminant for which the Administrator has required public notice pursuant to paragraph (2)(E).

''(2) FORM, MANNER, AND FREQUENCY OF NOTICE.—

''(A) IN GENERAL.—The Administrator shall, by regulation, and after consultation with the States, prescribe the manner, frequency, form, and content for giving notice under this subsection. The regulations shall—

''(i) provide for different frequencies of notice based on the differences between violations that are intermittent or infrequent and violations that are continuous or frequent; and

''(ii) take into account the seriousness of any potential adverse health effects that may be involved.

''(B) STATE REQUIREMENTS.—

''(i) IN GENERAL.—A State may, by rule, establish alternative notification requirements—

''(I) with respect to the form and content of notice given under and in a manner in accordance with subparagraph (C); and

''(II) with respect to the form and content of notice given under subparagraph (D).

''(ii) CONTENTS.—The alternative requirements shall provide the same type and amount of information as required pursuant to this subsection and regulations issued under subparagraph (A).

''(iii) RELATIONSHIP TO SECTION 1413.—Nothing in this subparagraph shall be construed or applied to modify the requirements of section 1413.

''(C) VIOLATIONS WITH POTENTIAL TO HAVE SERIOUS ADVERSE EFFECTS ON HUMAN HEALTH.—Regulations issued under subparagraph (A) shall specify notification procedures for each violation by a public water system that has the potential to have serious adverse effects on human health as a result of short-term exposure. Each notice of violation provided under this subparagraph shall—

''(i) be distributed as soon as practicable after the occurrence of the violation, but not later than 24 hours after the occurrence of the violation;

''(ii) provide a clear and readily understandable explanation of—

''(I) the violation;

''(II) the potential adverse effects on human health;

''(III) the steps that the public water system is taking to correct the violation; and

''(IV) the necessity of seeking alternative water supplies until the violation is corrected;

''(iii) be provided to the Administrator or the head of the State agency that has primary enforcement responsibility under section 1413 as soon as practicable, but not later than 24 hours after the occurrence of the violation; and

''(iv) as required by the State agency in general regulations of the State agency, or on a case-by-case basis after the consultation referred to in clause (iii), considering the health risks involved—

''(I) be provided to appropriate broadcast media;

''(II) be prominently published in a newspaper of general circulation serving the area not later than 1 day after distribution of a notice pursuant to clause (i) or the date of publication of the next issue of the newspaper; or

''(III) be provided by posting or door-to-door notification in lieu of notification by means of broadcast media or newspaper.

''(D) WRITTEN NOTICE.—

''(i) IN GENERAL.—Regulations issued under subparagraph (A) shall specify notification procedures for violations other than the violations covered by subparagraph (C). The procedures shall specify that a public water system shall provide written notice to each person served by the system by notice—

''(I) in the first bill (if any) prepared after the date of occurrence of the violation;

''(II) in an annual report issued not later than 1 year after the date of occurrence of the violation; or

''(III) by mail or direct delivery as soon as practicable, but not later than 1 year after the date of occurrence of the violation.

''(ii) FORM AND MANNER OF NOTICE.—The Administrator shall prescribe the form and manner of the notice to provide a clear and readily understandable explanation of—

''(I) the violation;

''(II) any potential adverse health effects; and

''(III) the steps that the system is taking to seek alternative water supplies, if any, until the violation is corrected.

''(E) UNREGULATED CONTAMINANTS.—The Administrator may require the owner or operator of a public water system to give notice to the persons served by the system of the concentration levels of an unregulated contaminant required to be monitored under section 1445(a).

''(3) REPORTS.—

''(A) ANNUAL REPORT BY STATE.—

''(i) IN GENERAL.—Not later than January 1, 1997, and annually thereafter, each State that has primary enforcement responsibility under section 1413 shall prepare, make readily available to the public, and submit to the Administrator an annual report on violations of national primary drinking water regulations by public water systems in the State, including violations with respect to—

''(I) maximum contaminant levels;

''(II) treatment requirements;

''(III) variances and exemptions; and

''(IV) monitoring requirements determined to be significant by the Administrator after consultation with the States.

''(ii) DISTRIBUTION.—The State shall publish and distribute summaries of the report and indicate where the full report is available for review.

''(B) ANNUAL REPORT BY ADMINISTRATOR.—Not later than July 1, 1997, and annually thereafter, the Administrator shall prepare and make available to the public an annual report summarizing and evaluating reports

submitted by States pursuant to subparagraph (A) and notices submitted by public water systems serving Indian Tribes provided to the Administrator pursuant to subparagraph (C) or (D) of paragraph (2) and making recommendations concerning the resources needed to improve compliance with this title. The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this title on Indian reservations.''.

SEC. 21. ENFORCEMENT; JUDICIAL REVIEW.

(a) IN GENERAL.—Section 1414 (42 U.S.C. 300g–3) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clause (i), by striking ''any national primary drinking water regulation in effect under section 1412'' and inserting ''any applicable requirement''; and

(II) by striking ''with such regulation or requirement'' and inserting ''with the requirement''; and

(ii) in subparagraph (B), by striking ''regulation or'' and inserting ''applicable''; and

(B) by striking paragraph (2) and inserting the following:

''(2) ENFORCEMENT IN NONPRIMACY STATES.—

''(A) IN GENERAL.—If, on the basis of information available to the Administrator, the Administrator finds, with respect to a period in which a State does not have primary enforcement responsibility for public water systems, that a public water system in the State—

''(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any applicable requirement; or

''(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant to the variance or exemption;

the Administrator shall issue an order under subsection (g) requiring the public water system to comply with the requirement, or commence a civil action under subsection (b).

''(B) NOTICE.—If the Administrator takes any action pursuant to this paragraph, the Administrator shall notify an appropriate local elected official, if any, with jurisdiction over the public water system of the action prior to the time that the action is taken.'';

(2) in the first sentence of subsection (b), by striking ''a national primary drinking water regulation'' and inserting ''any applicable requirement'';

(3) in subsection (g)—

(A) in paragraph (1), by striking ''regulation, schedule, or other'' each place it appears and inserting ''applicable'';

(B) in paragraph (2)—

(i) in the first sentence—

(I) by striking ''effect until after notice and opportunity for public hearing and,'' and inserting ''effect,''; and

(II) by striking ''proposed order'' and inserting ''order''; and

(ii) in the second sentence, by striking ''proposed to be''; and

(C) in paragraph (3)—

(i) by striking subparagraph (B) and inserting the following:

''(B) EFFECT OF PENALTY AMOUNTS.—In a case in which a civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a public hearing (unless the person against whom the penalty is assessed requests a hearing on the record in accordance with section 554 of title 5, United States Code). In a case in which a civil penalty sought by the Administrator under this paragraph exceeds $5,000, but does not exceed $25,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.''; and

(ii) in subparagraph (C), by striking ''paragraph exceeds $5,000'' and inserting ''subsection for a violation of an applicable requirement exceeds $25,000''; and

(4) by adding at the end the following:

''(h) CONSOLIDATION INCENTIVE.—

''(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility under section 1413) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

''(A) the physical consolidation of the system with 1 or more other systems;

''(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; or

''(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality.

''(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

''(i) DEFINITION OF APPLICABLE REQUIREMENT.—In this section, the term 'applicable requirement' means—

''(1) a requirement of section 1412, 1414, 1415, 1416, 1417, 1441, or 1445;

''(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

''(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

''(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part.''.

(b) STATE AUTHORITY FOR ADMINISTRATIVE PENALTIES.—Section 1413(a) (42 U.S.C. 300g–2(a)) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(3) by adding at the end the following:

''(6) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

''(A) in the case of a system serving a population of more than 10,000, that is not less than $1,000 per day per violation; and

''(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.''.

(c) JUDICIAL REVIEW.—Section 1448(a) (42 U.S.C. 300j–7(a)) is amended—

(1) in paragraph (2) of the first sentence, by inserting ''final'' after ''any other'';

(2) in the second sentence, by striking ''or issuance of the order'' and inserting ''or any other final Agency action''; and

(3) by adding at the end the following ''In any petition concerning the assessment of a civil penalty pursuant to section 1414(g)(3)(B), the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside and remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.''.

SEC. 22. FEDERAL AGENCIES.

(a) IN GENERAL.—Subsections (a) and (b) of section 1447 (42 U.S.C. 300j–6) are amended to read as follows:

''(a) COMPLIANCE.—

''(1) IN GENERAL.—Each Federal agency shall be subject to, and comply with, all Federal, State, interstate, and local substantive and procedural requirements, administrative authorities, and process and sanctions concerning the provision of safe drinking water or underground injection in the same manner, and to the same extent, as any nongovernmental entity is subject to, and shall comply with, the requirements, authorities, and process and sanctions.

''(2) ADMINISTRATIVE ORDERS AND PENALTIES.—The Federal, State, interstate, and local substantive and procedural requirements, administrative authorities, and process and sanctions referred to in paragraph (1) include all administrative orders and all civil and administrative penalties or fines, regardless of whether the penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

''(3) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—The United States expressly waives any immunity otherwise applicable to the United States with respect to any requirement, administrative authority, or process or sanction referred to in paragraph (2) (including any injunctive relief, administrative order, or civil or administrative penalty or fine referred to in paragraph (2), or reasonable service charge). The reasonable service charge referred to in the preceding sentence includes—

''(A) a fee or charge assessed in connection with the processing, issuance, renewal, or amendment of a permit, variance, or exemption, review of a plan, study, or other document, or inspection or monitoring of a facility; and

''(B) any other nondiscriminatory charge that is assessed in connection with a Federal, State, interstate, or local safe drinking water regulatory program.

''(4) CIVIL PENALTIES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under this subsection with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

''(5) CRIMINAL SANCTIONS.—An agent, employee, or officer of the United States may be subject to a criminal sanction under a State, interstate, or local law concerning the provision of drinking water or underground injection. No department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to a sanction referred to in the preceding sentence.

''(b) WAIVER OF COMPLIANCE.—

''(1) IN GENERAL.—The President may waive compliance with subsection (a) by any department, agency, or instrumentality in the executive branch if the President determines waiving compliance with such subsection to

be in the paramount interest of the United States.

''(2) WAIVERS DUE TO LACK OF APPROPRIATIONS.—No waiver described in paragraph (1) shall be granted due to the lack of an appropriation unless the President has specifically requested the appropriation as part of the budgetary process and Congress has failed to make available the requested appropriation.

''(3) PERIOD OF WAIVER.—A waiver under this subsection shall be for a period of not to exceed 1 year, but an additional waiver may be granted for a period of not to exceed 1 year on the termination of a waiver if the President reviews the waiver and makes a determination that it is in the paramount interest of the United States to grant an additional waiver.

''(4) REPORT.—Not later than January 31 of each year, the President shall report to Congress on each waiver granted pursuant to this subsection during the preceding calendar year, together with the reason for granting the waiver.''.

(b) ADMINISTRATIVE PENALTY ORDERS.—Section 1447 (42 U.S.C. 300j–6) is amended by adding at the end the following:

''(d) ADMINISTRATIVE PENALTY ORDERS.—

''(1) IN GENERAL.—If the Administrator finds that a Federal agency has violated an applicable requirement under this title, the Administrator may issue a penalty order assessing a penalty against the Federal agency.

''(2) PENALTIES.—The Administrator may, after notice to the agency, assess a civil penalty against the agency in an amount not to exceed $25,000 per day per violation.

''(3) PROCEDURE.—Before an administrative penalty order issued under this subsection becomes final, the Administrator shall provide the agency an opportunity to confer with the Administrator and shall provide the agency notice and an opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5, United States Code.

''(4) PUBLIC REVIEW.—

''(A) IN GENERAL.—Any interested person may obtain review of an administrative penalty order issued under this subsection. The review may be obtained in the United States District Court for the District of Columbia or in the United States District Court for the district in which the violation is alleged to have occurred by the filing of a complaint with the court within the 30-day period beginning on the date the penalty order becomes final. The person filing the complaint shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General.

''(B) RECORD.—The Administrator shall promptly file in the court a certified copy of the record on which the order was issued.

''(C) STANDARD OF REVIEW.—The court shall not set aside or remand the order unless the court finds that there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

''(D) PROHIBITION ON ADDITIONAL PENALTIES.—The court may not impose an additional civil penalty for a violation that is subject to the order unless the court finds that the assessment constitutes an abuse of discretion by the Administrator.''.

(c) CITIZEN ENFORCEMENT.—The first sentence of section 1449(a) (42 U.S.C. 300j–8(a)) is amended—

(1) in paragraph (1), by striking '', or'' and inserting a semicolon;

(2) in paragraph (2), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(3) for the collection of a penalty (and associated costs and interest) against any Federal agency that fails, by the date that is 1 year after the effective date of a final order to pay a penalty assessed by the Administrator under section 1447(d), to pay the penalty.''.

(d) WASHINGTON AQUEDUCT.—Section 1447 (42 U.S.C. 300j–6) (as amended by subsection (b)) is further amended by adding at the end the following:

''(e) WASHINGTON AQUEDUCT.—The Washington Aqueduct Authority, the Army Corps of Engineers, and the Secretary of the Army shall not pass the cost of any penalty assessed under this title on to any customer, user, or other purchaser of drinking water from the Washington Aqueduct system, including finished water from the Dalecarlia or McMillan treatment plant.''.

SEC. 23. RESEARCH.

Section 1442 (42 U.S.C. 300j–1) (as amended by section 12(d)) is further amended—

(1) by redesignating paragraph (3) of subsection (b) as paragraph (3) of subsection (d) and moving such paragraph to appear after paragraph (2) of subsection (d);

(2) by striking subsection (b) (as so amended);

(3) by redesignating subparagraph (B) of subsection (a)(2) as subsection (b) and moving such subsection to appear after subsection (a);

(4) in subsection (a)—

(A) by striking paragraph (2) (as so amended) and inserting the following:

''(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this title, the Administrator is authorized to—

''(A) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water, together with appropriate recommendations in connection with the information; and

''(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this title.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (11) as paragraph (3) and moving such paragraph to appear before paragraph (4); and

(D) by adding at the end the following:

''(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out research authorized by this section $25,000,000 for each of fiscal years 1994 through 2003, of which $4,000,000 shall be available for each fiscal year for research on the health effects of arsenic in drinking water.'';

(5) in subsection (b) (as so amended)—

(A) by striking ''subparagraph'' each place it appears and inserting ''subsection''; and

(B) by adding at the end the following: ''There are authorized to be appropriated to carry out this subsection $8,000,000 for each of fiscal years 1995 through 2003.'';

(6) in the first sentence of subsection (c), by striking ''eighteen months after the date of enactment of this subsection'' and inserting ''2 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and every 5 years thereafter'';

(7) in subsection (d) (as amended by paragraph (1))—

(A) in paragraph (1), by striking '', and'' at the end and inserting a semicolon;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon;

(C) in paragraph (3), by striking the period at the end and inserting ''; and'';

(D) by inserting after paragraph (3) the following:

''(4) develop and maintain a system for forecasting the supply of, and demand for, various professional occupational categories and other occupational categories needed for the protection and treatment of drinking water in each region of the United States.''; and

(E) by adding at the end the following: ''There are authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 1994 through 2003.''; and

(8) by adding at the end the following:

''(i) BIOLOGICAL MECHANISMS.—In carrying out this section, the Administrator shall conduct studies to—

''(1) understand the mechanisms by which chemical contaminants are absorbed, distributed, metabolized, and eliminated from the human body, so as to develop more accurate physiologically based models of the phenomena;

''(2) understand the effects of contaminants and the mechanisms by which the contaminants cause adverse effects (especially noncancer and infectious effects) and the variations in the effects among humans, especially subpopulations at greater risk of adverse effects, and between test animals and humans; and

''(3) develop new approaches to the study of complex mixtures, such as mixtures found in drinking water, especially to determine the prospects for synergistic or antagonistic interactions that may affect the shape of the dose-response relationship of the individual chemicals and microbes, and to examine noncancer endpoints and infectious diseases, and susceptible individuals and subpopulations.

''(j) RESEARCH PRIORITIES.—To establish long-term priorities for research under this section, the Administrator shall develop, and periodically update, an integrated risk characterization strategy for drinking water quality. The strategy shall identify unmet needs, priorities for study, and needed improvements in the scientific basis for activities carried out under this title. The initial strategy shall be made available to the public not later than 3 years after the date of enactment of this subsection.

''(k) RESEARCH PLAN FOR HARMFUL SUBSTANCES IN DRINKING WATER.—

''(1) DEVELOPMENT OF PLAN.—The Administrator shall—

''(A) not later than 180 days after the date of enactment of this subsection, after consultation with the Secretary of Health and Human Services, the Secretary of Agriculture, and, as appropriate, the heads of other Federal agencies, develop a research plan to support the development and implementation of the most current version of the—

''(i) enhanced surface water treatment rule (59 Fed. Reg. 38832 (July 29, 1994));

''(ii) disinfectant and disinfection byproducts rule (Stage 2) (59 Fed. Reg. 38668 (July 29, 1994)); and

''(iii) ground water disinfection rule (availability of draft summary announced at 57 Fed. Reg. 33960 (July 31, 1992)); and

''(B) carry out the research plan, after consultation and appropriate coordination with the Secretary of Agriculture and the heads of other Federal agencies.

''(2) CONTENTS OF PLAN.—

''(A) IN GENERAL.—The research plan shall include, at a minimum—

''(i) an identification and characterization of new disinfection byproducts associated with the use of different disinfectants;

''(ii) toxicological studies and, if warranted, epidemiological studies to determine what levels of exposure from disinfectants and disinfection byproducts, if any, may be associated with developmental and birth defects and other potential toxic end points;

''(iii) toxicological studies and, if warranted, epidemiological studies to quantify the carcinogenic potential from exposure to

disinfection byproducts resulting from different disinfectants;

''(iv) the development of practical analytical methods for detecting and enumerating microbial contaminants, including giardia, cryptosporidium, and viruses;

''(v) the development of reliable, efficient, and economical methods to determine the viability of individual cryptosporidium oocysts;

''(vi) the development of dose-response curves for pathogens, including cryptosporidium and the Norwalk virus;

''(vii) the development of indicators that define treatment effectiveness for pathogens and disinfection byproducts; and

''(viii) bench, pilot, and full-scale studies and demonstration projects to evaluate optimized conventional treatment, ozone, granular activated carbon, and membrane technology for controlling pathogens (including cryptosporidium) and disinfection byproducts.

''(B) RISK DEFINITION STRATEGY.—The research plan shall include a strategy for determining the risks and estimated extent of disease resulting from pathogens, disinfectants, and disinfection byproducts in drinking water, and the costs and removal efficiencies associated with various control methods for pathogens, disinfectants, and disinfection byproducts.

''(3) IMPLEMENTATION OF PLAN.—In carrying out the research plan, the Administrator shall use the most cost-effective mechanisms available, including coordination of research with, and use of matching funds from, institutions and utilities.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $12,500,000 for each of fiscal years 1997 through 2003.

''(l) SUBPOPULATIONS AT GREATER RISK.—

''(1) RESEARCH PLAN.—The Administrator shall conduct a continuing program of peer-reviewed research to identify groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to contaminants in drinking water. Not later than 1 year after the date of enactment of this subsection, the Administrator shall develop and implement a research plan to establish whether and to what degree infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that can be identified and characterized are likely to experience elevated health risks, including risks of cancer, from contaminants in drinking water.

''(2) CONTENTS OF PLAN.—To the extent appropriate, the research shall be—

''(A) integrated into the health effects research plan carried out by the Administrator to support the regulation of specific contaminants under this Act; and

''(B) designed to identify—

''(i) the nature and extent of the elevated health risks, if any;

''(ii) the groups likely to experience the elevated health risks;

''(iii) biological mechanisms and other factors that may contribute to elevated health risks for groups within the general population;

''(iv) the degree of variability of the health risks to the groups from the health risks to the general population;

''(v) the threshold, if any, at which the elevated health risks for a specific contaminant occur; and

''(vi) the probability of the exposure to the contaminants by the identified group.

''(3) REPORT.—Not later than 4 years after the date of enactment of this subsection and periodically thereafter as new and significant information becomes available, the Administrator shall report to Congress on the results of the research.

''(4) USE OF RESEARCH.—In characterizing the health effects of drinking water contaminants under this Act, the Administrator shall consider all relevant factors, including the results of research under this subsection, the margin of safety for variability in the general population, and sound scientific practices (including the 1993 and 1994 reports of the National Academy of Sciences) regarding subpopulations at greater risk for adverse health effects.''.

SEC. 24. DEFINITIONS.

(a) IN GENERAL.—Section 1401 (42 U.S.C. 300f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by inserting ''accepted methods for'' before ''quality control''; and

(B) by adding at the end the following:

''At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. The procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.'';

(2) in paragraph (13)—

(A) by striking ''The'' and inserting ''(A) Except as provided in subparagraph (B), the''; and

(B) by adding at the end the following:

''(B) For purposes of part G, the term 'State' means each of the 50 States and the Commonwealth of Puerto Rico.'';

(3) in paragraph (14), by adding at the end the following: ''For purposes of part G, the term includes any Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c))).''; and

(4) by adding at the end the following:

''(15) COMMUNITY WATER SYSTEM.—The term 'community water system' means a public water system that—

''(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

''(B) regularly serves at least 25 year-round residents.

''(16) NONCOMMUNITY WATER SYSTEM.—The term 'noncommunity water system' means a public water system that is not a community water system.''.

(b) PUBLIC WATER SYSTEM.—

(1) IN GENERAL.—Section 1401(4) (42 U.S.C. 300f(4)) is amended—

(A) in the first sentence, by striking ''piped water for human consumption'' and inserting ''water for human consumption through pipes or other constructed conveyances'';

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(C) by striking ''(4) The'' and inserting the following:

''(4) PUBLIC WATER SYSTEM.—

''(A) IN GENERAL.—The''; and

(D) by adding at the end the following:

''(B) CONNECTIONS.—

''(i) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if—

''(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

''(II) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

''(III) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that the water provided for residential or similar uses for drinking and cooking is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

''(ii) IRRIGATION DISTRICTS.—An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential use shall not be considered to be a public water system if the system or the residential users of the system comply with subclause (II) or (III) of clause (i).

''(C) TRANSITION PERIOD.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1995 shall not be considered a public water system for purposes of the Act until the date that is two years after the date of enactment of this subparagraph, if during such two-year period the water supplier complies with the monitoring requirements of the Surface Water Treatment Rule and no indicator of microbial contamination is exceeded during that period. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the two-year period, the water supplier shall not be considered a public water system.''.

SEC. 25. WATERSHED AND GROUND WATER PROTECTION.

(a) STATE GROUND WATER PROTECTION GRANTS.—Section 1443 (42 U.S.C. 300j–2) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) STATE GROUND WATER PROTECTION GRANTS.—

''(1) IN GENERAL.—The Administrator may make a grant to a State for the development and implementation of a State program to ensure the coordinated and comprehensive protection of ground water resources within the State.

''(2) GUIDANCE.—Not later than 1 year after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and annually thereafter, the Administrator shall publish guidance that establishes procedures for application for State ground water protection program assistance and that identifies key elements of State ground water protection programs.

''(3) CONDITIONS OF GRANTS.—

''(A) IN GENERAL.—The Administrator shall award grants to States that submit an application that is approved by the Administrator. The Administrator shall determine the amount of a grant awarded pursuant to this paragraph on the basis of an assessment of the extent of ground water resources in the State and the likelihood that awarding the grant will result in sustained and reliable protection of ground water quality.

''(B) INNOVATIVE PROGRAM GRANTS.—The Administrator may also award a grant pursuant to this paragraph for innovative programs proposed by a State for the prevention of ground water contamination.

''(C) ALLOCATION OF FUNDS.—The Administrator shall, at a minimum, ensure that, for each fiscal year, not less than 1 percent of funds made available to the Administrator

by appropriations to carry out this subsection are allocated to each State that submits an application that is approved by the Administrator pursuant to this subsection.

''(D) LIMITATION ON GRANTS.—No grant awarded by the Administrator may be used for a project to remediate ground water contamination.

''(4) COORDINATION WITH OTHER GRANT PROGRAMS.—The awarding of grants by the Administrator pursuant to this subsection shall be coordinated with the awarding of grants pursuant to section 319(i) of the Federal Water Pollution Control Act (33 U.S.C. 1329(i)) and the awarding of other Federal grant assistance that provides funding for programs related to ground water protection.

''(5) AMOUNT OF GRANTS.—The amount of a grant awarded pursuant to paragraph (1) shall not exceed 50 percent of the eligible costs of carrying out the ground water protection program that is the subject of the grant (as determined by the Administrator) for the 1-year period beginning on the date that the grant is awarded. The State shall pay a State share to cover the costs of the ground water protection program from State funds in an amount that is not less than 50 percent of the cost of conducting the program.

''(6) EVALUATIONS AND REPORTS.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and every 3 years thereafter, the Administrator shall evaluate the State ground water protection programs that are the subject of grants awarded pursuant to this subsection and report to Congress on the status of ground water quality in the United States and the effectiveness of State programs for ground water protection.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 1995 through 2003.''.

(b) CRITICAL AQUIFER PROTECTION.—Section 1427 (42 U.S.C. 300h–6) is amended—

(1) in subsection (b)(1), by striking ''not later than 24 months after the enactment of the Safe Drinking Water Act Amendments of 1986''; and

(2) in the first sentence of subsection (n), by adding at the end the following:

''1992–2003 ..... 15,000,000.''.

(c) WELLHEAD PROTECTION AREAS.—Section 1428(k) (42 U.S.C. 300h–7(k)) is amended by adding at the end the following:

''1992–2003 ..... 30,000,000.''.

(d) UNDERGROUND INJECTION CONTROL GRANT.—Section 1443(b)(5) (42 U.S.C. 300j–2(b)(5)) is amended by adding at the end the following:

''1992–2003 ..... 15,000,000.''.

(e) REPORT TO CONGRESS ON PRIVATE DRINKING WATER.—Section 1450 (42 U.S.C. 300j–9) is amended by striking subsection (h) and inserting the following:

''(h) REPORT TO CONGRESS ON PRIVATE DRINKING WATER.—The Administrator shall conduct a study to determine the extent and seriousness of contamination of private sources of drinking water that are not regulated under this title. Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall submit to Congress a report that includes the findings of the study and recommendations by the Administrator concerning responses to any problems identified under the study. In designing and conducting the study, including consideration of research design, methodology, and conclusions and recommendations, the Administrator shall consult with experts outside the Agency, including scientists, hydrogeologists, well contractors and suppliers, and other individuals knowledgeable in ground water protection and remediation.''.

(f) NATIONAL CENTER FOR GROUND WATER RESEARCH.—The Administrator of the Environmental Protection Agency, acting through the Robert S. Kerr Environmental Research Laboratory, is authorized to reestablish a partnership between the Laboratory and the National Center for Ground Water Research, a university consortium, to conduct research, training, and technology transfer for ground water quality protection and restoration.

(g) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

(1) The heading of section 1443 (42 U.S.C.) is amended to read as follows:

''Grants for State and local programs''

(2) Section 1443 (42 U.S.C.) is amended by adding at the end thereof the following:

''(e) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

''(1) IN GENERAL.—

''(A) ASSISTANCE FOR DEMONSTRATION PROJECTS.—The Administrator is authorized to provide technical and financial assistance to units of State or local government for projects that demonstrate and assess innovative and enhanced methods and practices to develop and implement watershed protection programs including methods and practices that protect both surface and ground water. In selecting projects for assistance under this subsection, the Administrator shall give priority to projects that are carried out to satisfy criteria published under section 1412(b)(7)(C) or that are identified through programs developed and implemented pursuant to section 1428.

''(B) MATCHING REQUIREMENTS.—Federal assistance provided under this subsection shall not exceed 35 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

''(2) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—

''(A) IN GENERAL.—Pursuant to the authority of paragraph (1), the Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administrator by the State of New York as satisfying the purposes of this subsection and shall include those projects that demonstrate, assess, or provide for comprehensive monitoring, surveillance, and research with respect to the efficacy of phosphorus offsets or trading, wastewater diversion, septic system siting and maintenance, innovative or enhanced wastewater treatment technologies, innovative methodologies for the control of storm water runoff, urban, agricultural, and forestry best management practices for controlling nonpoint source pollution, operator training, compliance surveillance and that establish watershed or basin-wide coordinating, planning or governing organizations. In certifying projects to the Administrator, the State of New York shall give priority to these monitoring and research projects that have undergone peer review.

''(B) REPORT.—Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

''(3) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this subsection for each of fiscal years 1997 through 2003 including $15,000,000 for each of such fiscal years for the purpose of providing assistance to the State of New York to carry out paragraph (2).''.

SEC. 26. LEAD PLUMBING AND PIPES; RETURN FLOWS.

(a) FITTINGS AND FIXTURES.—Section 1417 (42 U.S.C. 300g–6) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

''(1) PROHIBITIONS.—

''(A) IN GENERAL.—No person may use any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux, after June 19, 1986, in the installation or repair of—

''(i) any public water system; or

''(ii) any plumbing in a residential or nonresidential facility providing water for human consumption,

that is not lead free (within the meaning of subsection (d)).

''(B) LEADED JOINTS.—Subparagraph (A) shall not apply to leaded joints necessary for the repair of cast iron pipes.'';

(B) in paragraph (2)(A), by inserting after ''Each'' the following: ''owner or operator of a''; and

(C) by adding at the end the following:

''(3) UNLAWFUL ACTS.—Effective 2 years after the date of enactment of this paragraph, it shall be unlawful—

''(A) for any person to introduce into commerce any pipe, or any pipe or plumbing fitting or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing;

''(B) for any person engaged in the business of selling plumbing supplies, except manufacturers, to sell solder or flux that is not lead free; or

''(C) for any person to introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.'';

(2) in subsection (d)—

(A) in paragraph (1), by striking ''lead, and'' and inserting ''lead;'';

(B) in paragraph (2), by striking ''lead.'' and inserting ''lead; and''; and

(C) by adding at the end the following:

''(3) when used with respect to plumbing fittings and fixtures, refers to plumbing fittings and fixtures in compliance with standards established in accordance with subsection (e).''; and

(3) by adding at the end the following:

''(e) PLUMBING FITTINGS AND FIXTURES.—

''(1) IN GENERAL.—The Administrator shall provide accurate and timely technical information and assistance to qualified third-party certifiers in the development of voluntary standards and testing protocols for the leaching of lead from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion.

''(2) STANDARDS.—

''(A) IN GENERAL.—If a voluntary standard for the leaching of lead is not established by the date that is 1 year after the date of enactment of this subsection, the Administrator shall, not later than 2 years after the date of enactment of this subsection, promulgate regulations setting a health-effects-based performance standard establishing maximum leaching levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

''(B) ALTERNATIVE REQUIREMENT.—If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after the date of enactment of this subsection, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the manufacturer to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.''.

(b) WATER RETURN FLOWS.—Section 3013 of Public Law 102–486 (42 U.S.C. 13551) is repealed.

(c) RECORDS AND INSPECTIONS.—Subparagraph (A) of section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as designated by section 19(a)(1)(A)) is amended by striking ''Every person'' and all that follows through ''is a grantee,'' and inserting ''Every person who is subject to any requirement of this title or who is a grantee''.

SEC. 27. BOTTLED WATER.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended—

(1) by striking ''Whenever'' and inserting ''(a) Except as provided in subsection (b), whenever''; and

(2) by adding at the end the following:

''(b)(1) After the Administrator of the Environmental Protection Agency publishes a proposed maximum contaminant level, but not later than 180 days after the Administrator of the Environmental Protection Agency publishes a final maximum contaminant level, for a contaminant under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1), the Secretary, after public notice and comment, shall issue a regulation that establishes a quality level for the contaminant in bottled water or make a finding that a regulation is not necessary to protect the public health because the contaminant is contained in water in the public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4)) and not in water used for bottled drinking water. In the case of any contaminant for which a national primary drinking water regulation was promulgated before the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Secretary shall issue the regulation or make the finding required by this paragraph not later than 1 year after that date.

''(2) The regulation shall include any monitoring requirements that the Secretary determines to be appropriate for bottled water.

''(3) The regulation—

''(A) shall require that the quality level for the contaminant in bottled water be as stringent as the maximum contaminant level for the contaminant published by the Administrator of the Environmental Protection Agency; and

''(B) may require that the quality level be more stringent than the maximum contaminant level if necessary to provide ample public health protection under this Act.

''(4)(A) If the Secretary fails to establish a regulation within the period described in paragraph (1), the regulation with respect to the final maximum contaminant level published by the Administrator of the Environmental Protection Agency (as described in such paragraph) shall be considered, as of the date on which the Secretary is required to establish a regulation under paragraph (1), as the final regulation for the establishment of the quality level for a contaminant required under paragraph (1) for the purpose of establishing or amending a bottled water quality level standard with respect to the contaminant.

''(B) Not later than 30 days after the end of the period described in paragraph (1), the Secretary shall, with respect to a maximum contaminant level that is considered as a quality level under subparagraph (A), publish a notice in the Federal Register that sets forth the quality level and appropriate monitoring requirements required under paragraphs (1) and (2) and that provides that the quality level standard and requirements shall take effect on the date on which the final regulation of the maximum contaminant level takes effect or 18 months after the notice is issued pursuant to this subparagraph, whichever is later.''.

SEC. 28. OTHER AMENDMENTS.

(a) CAPITAL IMPROVEMENTS FOR THE WASHINGTON AQUEDUCT.—

(1) AUTHORIZATIONS.—

(A) AUTHORIZATION OF MODERNIZATION.—Subject to approval in, and in such amounts as may be provided in appropriations Acts, the Chief of Engineers of the Army Corps of Engineers is authorized to modernize the Washington Aqueduct.

(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Army Corps of Engineers borrowing authority in amounts sufficient to cover the full costs of modernizing the Washington Aqueduct. The borrowing authority shall be provided by the Secretary of the Treasury, under such terms and conditions as are established by the Secretary of the Treasury, after a series of contracts with each public water supply customer has been entered into under paragraph (2).

(2) CONTRACTS WITH PUBLIC WATER SUPPLY CUSTOMERS.—

(A) CONTRACTS TO REPAY CORPS DEBT.—To the extent provided in appropriations Acts, and in accordance with subparagraphs (B) and (C), the Chief of Engineers of the Army Corps of Engineers is authorized to enter into a series of contracts with each public water supply customer under which the customer commits to repay a pro-rata share of the principal and interest owed by the Army Corps of Engineers to the Secretary of the Treasury under paragraph (1). Under each of the contracts, the customer that enters into the contract shall commit to pay any additional amount necessary to fully offset the risk of default on the contract.

(B) OFFSETTING OF RISK OF DEFAULT.—Each contract under subparagraph (A) shall include such additional terms and conditions as the Secretary of the Treasury may require so that the value to the Government of the contracts is estimated to be equal to the obligational authority used by the Army Corps of Engineers for modernizing the Washington Aqueduct at the time that each series of contracts is entered into.

(C) OTHER CONDITIONS.—Each contract entered into under subparagraph (A) shall—

(i) provide that the public water supply customer pledges future income from fees assessed to operate and maintain the Washington Aqueduct;

(ii) provide the United States priority over all other creditors; and

(iii) include other conditions that the Secretary of the Treasury determines to be appropriate.

(3) BORROWING AUTHORITY.—Subject to an appropriation under paragraph (1)(B) and after entering into a series of contracts under paragraph (2), the Secretary, acting through the Chief of Engineers of the Army Corps of Engineers, shall seek borrowing authority from the Secretary of the Treasury under paragraph (1)(B).

(4) DEFINITIONS.—In this subsection:

(A) PUBLIC WATER SUPPLY CUSTOMER.—The term ''public water supply customer'' means the District of Columbia, the county of Arlington, Virginia, and the city of Falls Church, Virginia.

(B) VALUE TO THE GOVERNMENT.—The term ''value to the Government'' means the net present value of a contract under paragraph (2) calculated under the rules set forth in subparagraphs (A) and (B) of section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), excluding section 502(5)(B)(i) of such Act, as though the contracts provided for the repayment of direct loans to the public water supply customers.

(C) WASHINGTON AQUEDUCT.—The term ''Washington Aqueduct'' means the water supply system of treatment plants, raw water intakes, conduits, reservoirs, transmission mains, and pumping stations owned by the Federal Government located in the metropolitan Washington, District of Columbia, area.

(b) DRINKING WATER ADVISORY COUNCIL.—The second sentence of section 1446(a) (42 U.S.C. 300j–6(a)) is amended by inserting before the period at the end the following: '', of which two such members shall be associated with small, rural public water systems''.

(c) SHORT TITLE.—

(1) IN GENERAL.—The title (42 U.S.C. 1401 et seq.) is amended by inserting after the title heading the following:

''SHORT TITLE

''SEC. 1400. This title may be cited as the 'Safe Drinking Water Act'.''.

(2) CONFORMING AMENDMENT.—Section 1 of Public Law 93–523 (88 Stat. 1660) is amended by inserting ''of 1974'' after ''Water Act''.

(d) TECHNICAL AMENDMENTS TO SECTION HEADINGS.—

(1) The section heading and subsection designation of subsection (a) of section 1417 (42 U.S.C. 300g–6) are amended to read as follows:

''PROHIBITION ON USE OF LEAD PIPES, FITTINGS, SOLDER, AND FLUX

''SEC. 1417. (a)''.

(2) The section heading and subsection designation of subsection (a) of section 1426 (42 U.S.C. 300h–5) are amended to read as follows:

''REGULATION OF STATE PROGRAMS

''SEC. 1426. (a)''.

(3) The section heading and subsection designation of subsection (a) of section 1427 (42 U.S.C. 300h–6) are amended to read as follows:

''SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

''SEC. 1427. (a)''.

(4) The section heading and subsection designation of subsection (a) of section 1428 (42 U.S.C. 300h–7) are amended to read as follows:

''STATE PROGRAMS TO ESTABLISH WELLHEAD PROTECTION AREAS

''SEC. 1428. (a)''.

(5) The section heading and subsection designation of subsection (a) of section 1432 (42 U.S.C. 300i–1) are amended to read as follows:

''TAMPERING WITH PUBLIC WATER SYSTEMS

''SEC. 1432. (a)''.

(6) The section heading and subsection designation of subsection (a) of section 1451 (42 U.S.C. 300j–11) are amended to read as follows:

''INDIAN TRIBES

''SEC. 1451. (a)''.

(7) The section heading and first word of section 1461 (42 U.S.C. 300j–21) are amended to read as follows:

''DEFINITIONS

''SEC. 1461. As''.

(8) The section heading and first word of section 1462 (42 U.S.C. 300j–22) are amended to read as follows:

''RECALL OF DRINKING WATER COOLERS WITH LEAD-LINED TANKS

''SEC. 1462. For''.

(9) The section heading and subsection designation of subsection (a) of section 1463 (42 U.S.C. 300j–23) are amended to read as follows:

''DRINKING WATER COOLERS CONTAINING LEAD

''SEC. 1463. (a)''.

(10) The section heading and subsection designation of subsection (a) of section 1464 (42 U.S.C. 300j–24) are amended to read as follows:

''LEAD CONTAMINATION IN SCHOOL DRINKING WATER

''SEC. 1464. (a)''.

(11) The section heading and subsection designation of subsection (a) of section 1465 (42 U.S.C. 300j–25) are amended to read as follows:

''FEDERAL ASSISTANCE FOR STATE PROGRAMS REGARDING LEAD CONTAMINATION IN SCHOOL DRINKING WATER

''SEC. 1465. (a)''.

(e) PREVENTION AND CONTROL OF ZEBRA MUSSEL INFESTATION OF LAKE CHAMPLAIN.—

(1) FINDINGS.—Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended—

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

(B) by striking the period at the end of paragraph (4) and inserting ''; and''; and

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

''(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate.''.

(2) EX OFFICIO MEMBERS OF AQUATIC NUISANCE SPECIES TASK FORCE.—Section 1201(c) of such Act (16 U.S.C. 4721(c)) is amended by inserting '', the Lake Champlain Basin Program,'' after ''Great Lakes Commission''.

(3) AQUATIC NUISANCE SPECIES PROGRAM.—Subsections (b)(6) and (i)(1) of section 1202 of such Act (16 U.S.C. 4722) is amended by inserting '', Lake Champlain,'' after ''Great Lakes'' each place it appears.

(4) AUTHORIZATION OF APPROPRIATIONS.—Section 1301(b) of such Act (16 U.S.C. 4741(b)) is amended—

(A) in paragraph (3), by inserting '', and the Lake Champlain Research Consortium,'' after ''Laboratory''; and

(B) in paragraph (4)(A)—

(i) by inserting after ''(33 U.S.C. 1121 et seq.)'' the following: ''and grants to colleges for the benefit of agriculture and the mechanic arts referred to in the first section of the Act of August 30, 1890 (26 Stat 417, chapter 841; 7 U.S.C. 322)''; and

(ii) by inserting ''and the Lake Champlain basin'' after ''Great Lakes region''.

(f) SOUTHWEST CENTER FOR ENVIRONMENTAL RESEARCH AND POLICY.—

(1) ESTABLISHMENT OF CENTER.—The Administrator of the Environmental Protection Agency shall take such action as may be necessary to establish the Southwest Center for Environmental Research and Policy (hereinafter referred to as ''the Center'').

(2) MEMBERS OF THE CENTER.—The Center shall consist of a consortium of American and Mexican universities, including New Mexico State University; the University of Utah; the University of Texas at El Paso; San Diego State University; Arizona State University; and four educational institutions in Mexico.

(3) FUNCTIONS.—Among its functions, the Center shall—

(A) conduct research and development programs, projects and activities, including training and community service, on United States-Mexico border environmental issues, with particular emphasis on water quality and safe drinking water;

(B) provide objective, independent assistance to the EPA and other Federal, State and local agencies involved in environmental policy, research, training and enforcement, including matters affecting water quality and safe drinking water throughout the southwest border region of the United States; and

(C) help to coordinate and facilitate the improvement of environmental policies and programs between the United States and Mexico, including water quality and safe drinking water policies and programs.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator $10,000,000 for each of the fiscal years 1996 through 2003 to carry out the programs, projects and activities of the Center. Funds made available pursuant to this paragraph shall be distributed by the Administrator to the university members of the Center located in the United States.

(g) ESTROGENIC SUBSTANCES SCREENING PROGRAM.—

(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall develop a screening program, using appropriate validated test systems, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as the Administrator may designate.

(2) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this subsection, after obtaining review of the screening program described in paragraph 1 by the scientific advisory panel established under section 25(d) of the Act of June 25, 1947 (chapter 125), and the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), the Administrator shall implement the program.

(3) SUBSTANCES.—In carrying out the screening program described in paragraph (1), the Administrator shall provide for the testing of all active and inert ingredients used in products described in section 103(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603(e)), and may provide for the testing of any other substance if the Administrator determines that a widespread population may be exposed to the substance.

(4) EXEMPTION.—Notwithstanding paragraph (3), the Administrator may, by regulation, exempt from the requirements of this subsection a biologic substance or other substance if the Administrator determines that the substance does not have any effect in humans similar to an effect produced by a naturally occurring estrogen.

(5) COLLECTION OF INFORMATION.—

(A) IN GENERAL.—The Administrator shall issue an order to a person that manufactures a substance for which testing is required under this subsection to conduct testing in accordance with the screening program described in paragraph (1), and submit information obtained from the testing to the Administrator, within a time period that the Administrator determines is sufficient for the generation of the information.

(B) FAILURE TO SUBMIT INFORMATION.—

(i) SUSPENSION.—If a person referred to in subparagraph (A) fails to submit the information required under such subparagraph within the time period established by the order, the Administrator shall issue a notice of intent to suspend the sale or distribution of the substance by the person. Any suspension proposed under this subparagraph shall become final at the end of the 30-day period beginning on the date that the person receives the notice of intent to suspend, unless during that period a person adversely affected by the notice requests a hearing or the Administrator determines that the person referred to in subparagraph (A) has complied fully with this paragraph.

(ii) HEARING.—If a person requests a hearing under clause (i), the hearing shall be conducted in accordance with section 554 of title 5, United States Code. The only matter for resolution at the hearing shall be whether the person has failed to submit information required under this paragraph. A decision by the Administrator after completion of a hearing shall be considered to be a final agency action.

(iii) TERMINATION OF SUSPENSIONS.—The Administrator shall terminate a suspension under this subparagraph issued with respect to a person if the Administrator determines that the person has complied fully with this paragraph.

(6) AGENCY ACTION.—In the case of any substance that is found to have a potential adverse effect on humans as a result of testing and evaluation under this subsection, the Administrator shall take such action, including appropriate regulatory action by rule or by order under statutory authority available to the Administrator, as is necessary to ensure the protection of public health.

(7) REPORT TO CONGRESS.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall prepare and submit to Congress a report containing—

(A) the findings of the Administrator resulting from the screening program described in paragraph (1);

(B) recommendations for further testing and research needed to evaluate the impact on human health of the substances tested under the screening program; and

(C) recommendations for any further actions (including any action described in paragraph (6)) that the Administrator determines are appropriate based on the findings.

(h) GRANTS TO ALASKA TO IMPROVE SANITATION IN RURAL AND NATIVE VILLAGES.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency may make grants to the State of Alaska for the benefit of rural and Native villages in Alaska to pay the Federal share of the cost of—

(A) the development and construction of water and wastewater systems to improve the health and sanitation conditions in the villages; and

(B) training, technical assistance, and educational programs relating to the operation and management of sanitation services in rural and Native villages.

(2) FEDERAL SHARE.—The Federal share of the cost of the activities described in paragraph (1) shall be 50 percent.

(3) ADMINISTRATIVE EXPENSES.—The State of Alaska may use an amount not to exceed 4 percent of any grant made available under this subsection for administrative expenses necessary to carry out the activities described in paragraph (1).

(4) CONSULTATION WITH THE STATE OF ALASKA.—The Administrator shall consult with the State of Alaska on a method of prioritizing the allocation of grants under paragraph (1) according to the needs of, and relative health and sanitation conditions in, each eligible village.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1996 through 2003 to carry out this subsection.

(i) ASSISTANCE TO COLONIAS.—

(1) DEFINITIONS.—As used in this subsection—

(A) ELIGIBLE COMMUNITY.—The term ''eligible community'' means a low-income community with economic hardship that—

(i) is commonly referred to as a colonia;

(ii) is located along the United States-Mexico border (generally in an unincorporated area); and

(iii) lacks basic sanitation facilities such as a safe drinking water supply, household plumbing, and a proper sewage disposal system.

(B) BORDER STATE.—The term ''border State'' means Arizona, California, New Mexico and Texas.

(C) TREATMENT WORKS.—The term ''treatment works'' has the meaning provided in section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

(2) GRANTS TO ALLEVIATE HEALTH RISKS.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to any appropriate entity or border State to provide assistance to eligible communities for—

(A) the conservation, development, use and control (including the extension or improvement of a water distribution system) of water for the purpose of supplying drinking water; and

(B) the construction or improvement of sewers and treatment works for wastewater treatment.

(3) USE OF FUNDS.—Each grant awarded pursuant to paragraph (2) shall be used to provide assistance to one or more eligible community with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system or treatment works for wastewater.

(4) OPERATION AND MAINTENANCE.—The Administrator and the heads of other appropriate Federal agencies, other entities or border States are authorized to use funds appropriated pursuant to this subsection to operate and maintain a treatment works or other project that is constructed with funds made available pursuant to this subsection.

(5) PLANS AND SPECIFICATIONS.—Each treatment works or other project that is funded by a grant awarded pursuant to this subsection shall be constructed in accordance with plans and specifications approved by the Administrator, the head of the Federal agency making the grant, or the border State in which the eligible community is located. The standards for construction applicable to a treatment works or other project eligible for assistance under title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) shall apply to the construction of a treatment works or project under this subsection in the same manner as the standards apply under such title.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal years 1996 through 2003.

MESSAGES 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 RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House disagrees to the amendment of the Senate to the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulations of transportation, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as 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.

MESSAGES FROM THE HOUSE

At 3:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1788. An act to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S. 1438. A bill to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes.

S. 1441. A bill to authorize appropriations for the Department of State for fiscal years 1996 through 1999 and to abolish the United States Information Agency, the United States Arms Control and Disarmament Agency, and the Agency for International Development, and for other purposes.

The following measure was read the first and second time by unanimous consent and placed on the calendar:

H.R. 1788. An act to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1641. A communication from the White House Chief of Staff, transmitting, pursuant to law, a notice of certification relative to the Executive Office of the President's Drug Free Workplace Plan; to the Committee on Governmental Affairs.

EC–1642. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports and testimony for October 1995; to the Committee on Governmental Affairs.

EC–1643. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–1644. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to amend 5 U.S.C. section 5706 to authorize the head of an agency to reimburse Federal employees for taxes incurred on money received for travel expenses; to the Committee on Governmental Affairs.

EC–1645. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1, 1995, through September 30, 1995; to the Committee on Governmental Affairs.

EC–1646. A communication from the Director of the Office of Personnel Management, transmitting, a draft of proposed legislation to authorize financial institutions to disclose to the Office of Personnel Management the names and current addresses of their customers who are receiving, by direct deposit or electronic funds transfer, payment of Civil Service Retirement benefits under chapter 83 or Federal Employees' Retirement benefits under chapter 84 of title 5, United States Code; to the Committee on Governmental Affairs.

EC–1647. A communication from the Director of the Office of Personnel Management, transmitting, a draft of proposed legislation to provide for accrual accounting of retirement costs for Federal civilian employees, and for other purposes; to the Committee on Government Affairs.

EC–1648. A communication from the Secretary of Labor, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–1649. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of surplus real property transferred for public health purposes for fiscal year 1995; to the Committee on Governmental Affairs.

EC–1650. A communication from the Under Secretary of the Treasury (Domestic Finance), transmitting, pursuant to law, relative to the debt limit and the Civil Service Retirement and Disability Fund (CSR); to the Committee on Governmental Affairs.

EC–1651. A communication from the Under Secretary of the Treasury (Domestic Finance), transmitting, pursuant to law, relative to the debt limit and the Federal Employees' Retirement System Government Securities Investment Fund (FERS); to the Committee on Governmental Affairs.

EC–1652. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled ''Performance Audit of the Office of Emergency Preparedness;'' to the Committee on Governmental Affairs.

EC–1653. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through Septmeber 30, 1995; to the Committee on Governmental Affairs.

EC–1654. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a resolution concerning proposed D.C. law 11–150; to the Committee on Governmental Affairs.

EC–1657. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–147 adopted by the Council on October 10, 1995; to the Committee on Governmental Affairs.

EC–1658. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–150 adopted by the Council on October 10, 1995; to the Committee on Governmental Affairs.

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. JOHNSTON:

S. 1442. A bill to authorize the Secretary of Health and Human Services to award a grant for the establishment of the National Center for Sickle Cell Disease Research, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 1443. A bill to designate the United States Post Office building located at 102 South McLean, Lincoln, Illinois, as the ''Edward Madigan Post Office Building,'' and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON:

S. 1442. A bill to authorize the Secretary of Health and Human Services to award a grant for the establishment of the National Center for Sickle Cell Disease Research, and for other purposes; to the Committee on Labor and Human Resources.

THE NATIONAL CENTER FOR SICKLE CELL DISEASE RESEARCH ESTABLISHMENT ACT OF 1995

● Mr. JOHNSTON. Mr. President, I introduce legislation that will support research for a disease which disproportionately affects African-Americans and other minority groups. Sickle cell disease is a painful, life-threatening, genetic disease. Approximately 1 of every 12 African-Americans is born with the sickle cell genetic trait, and about 1 in every 600 is afflicted with sickle cell disease. Sickle cell conditions are also found, although less frequently, in other United States populations, including those of Puerto Rican, Cuban, and southern Italian ancestry. The disease has also recently been found in some Caucasians.

Sickle cell disease is based in the circulatory system and is a painful and disabling disorder for which there is currently no cure. In a healthy body, red blood cells contain the substance hemoglobin which carries oxygen from the lungs to various organs and tissues. This role of hemoglobin is essential to life because all body components require oxygen to live and carry out their functions. Diseased bodies have an abnormal type of hemoglobin which interrupts the flow of oxygen to these vital organs.

Red blood cells that contain normal hemoglobin remain round when they release oxygen. Cells with abnormal or sickle hemoglobin, upon releasing oxygen, become distorted into the shape of a sickle causing a chronic and painful anemia. Distorted, or sickled cells cannot traverse capillaries, further limiting oxygen supply to the body's tissues.

Mr. President, the minority population in the State of Louisiana is about 1.29 million people. Of this number roughly 3,250 people are suspected of having the disease, and of this number, 25 percent will have the most acute and serious form, which is often fatal. Alarmingly, about 130,000 Louisianians carry the genetic trait for this illness.

Mr. President, despite the fact that the cause of the sickle cell disease has been known for many years, progress has not been made in finding suitable treatment. Currently, the most common treatment for the illness is pain relief medication, treating only the immediate symptoms. Treating only the symptoms results in tissue damage, often to major organs, with each successive episode of oxygen deprivation. Consequently, many of those afflicted with severe forms of the disease often do not even live to see adulthood.

Concerned with finding a cure for a disease that has such a devastating effect on the Nation's minority populations, Southern University in Baton Rouge, LA, the largest predominately African-American university in the United States, has committed itself to the creation of a center for sickle cell disease research.

With a single purpose, this center will conduct multidisciplinary research to lead to the discovery of a cure for sickle cell disease. The center will conduct basic biomedical research to determine the types of drugs that can prevent, inhibit, or reverse the sickling process, along with clinical research and joint studies to conduct clinical trials on antisickling agents. In addition, the center will work with other institutions to promote and enhance scholarship and teaching knowledge in order to disseminate newly gained knowledge on the disease.

Mr. President, it is important to note that the Louisiana State Legislature in recognition of the importance of such a center, and even in these exceedingly hard economic times, has committed $7 million to this project. To complete the center, and to be able to provide this valuable public health research, Southern University needs Federal assistance. To provide this assistance, I offer a bill to authorize the Secretary of Health and Human Services to award a grant for the creation of this center. This legislation will direct the Secretary to provide a grant to the Louisiana Department of Health and Hospitals for the establishment and construction of the National Center for Sickle Cell Disease Research at Southern University in Baton Rouge.

Mr. President, sickle cell disease is a vital public health problem which this bill would assist in overcoming. Such funding can only aid in the development of this Nation. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1442

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

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that:

(1) Sickle Cell Disease is a serious illness that disproportionately affects African-Americans.

(2) Approximately 1 out of every 12 African-Americans is born with the sickle cell trait, and about 1 out of every 600 is afflicted with Sickle cell Disease.

(3) Sickle Cell conditions also occur in other United States populations, primarily those of Puerto Rican, Cuban, southern Italian ancestry and more recently sickle cell has been found in some Caucasian individuals.

(4) Sickle Cell Disease is a painful and disabling disorder which can lead to untimely death and is cause by inadequate transportation of oxygen due to an abnormal type of hemoglobin molecule in the red blood cells.

(5) Sickle Cell Disease is an inherited disease which can be transmitted to offspring, particularly if both parents carry the genetic trait.

(6) The sickle cell trait carriers show no sign of the disease, but statistically, 1 in 4 of their children will be afflicted with the disease.

(7) There is no national research center devoted to Sickle Cell Disease in the United States.

(8) There is no known cure for Sickle Cell Disease at this time and there is a need for prioritized and specialized research to find such a cure for this severely disabling disease.

(9) Louisiana's minority population is 1,299,281.

(10) Of this number, a suspected 3,248 individuals will have the disease and of those individuals, 25 percent (812 individuals) will have the most acute and serious stage of Sickle Cell Disease, a stage that is usually fatal.

(11) Some 129,928 individuals in Louisiana will carry the sickle cell trait.

(12) Southern University, located in Baton Rouge, Louisiana is the largest predominately African-American university in the United States.

(13) Approximately 16,700 students attend this 112 year old school and Southern graduates are located throughout the United States and the world.

(14) The State of Louisiana through the Louisiana Legislature and Southern University, has shown great leadership and committed significant financial and personnel

resources towards the development of a National Center for Sickle Cell Disease Research.

(15) Because Southern University has committed its resources and personnel to seeing this project through to its ultimate goal, finding a cure for Sickle Cell Disease, and because of Southern University's large minority population it is appropriate to locate the National Center for Sickle Cell Disease Research at Southern University in Baton Rouge.

(b) PURPOSE.—It is the purpose of this Act to establish a National Center for Sickle Cell Disease at Southern University in Baton Rouge, Louisiana, that will have the following objectives—

(1) to conduct biomedical research and clinical investigations designed to find a cure for Sickle Cell Disease;

(2) to conduct a wide variety of human behavioral studies designed to provide new knowledge about such issues as the effectiveness of various counseling and education methods, and techniques to improve coping skills on the part of patients and their families;

(3) to establish collaborative arrangements and joint research programs and projects with other Louisiana institutions of higher education, such as Louisiana State University Medical Centers at New Orleans and Shreveport and Tulane University Medical Center to conduct clinical trials on antisickling agents;

(4) to provide expanded opportunities for faculty members at the institutions described in paragraph (3) to publish in the three broad areas of basic biomedical research, psychosocial research and clinical research;

(5) to become a laboratory for training both graduate and undergraduate students in research methods and techniques concerning Sickle Cell Disease; and

(6) to develop, promote and implement joint research projects with other public and private higher education institutions including teaching hospitals on Sickle Cell Disease.

SEC. 2. NATIONAL CENTER FOR SICKLE CELL DISEASE RESEARCH.

(a) GRANT.—The Secretary of Health and Human Services shall award a grant to the Louisiana Department of Health and Hospitals for the establishment and construction of the National Center for Sickle Cell Disease Research at Southern University in Baton Rouge, Louisiana, and for related facilities and equipment at such Center. Prior to the awarding of such grant, the State of Louisiana shall certify to the Secretary—

(1) that the State of Louisiana has provided not less than $7,000,000 to support and operate such Center; and

(2) that the State of Louisiana has developed a plan to provide funds for the continued operation and support of such center.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $21,000,000 to carry out the purposes of this Act. ●

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 1443. A bill to designate the United States Post Office building located at 102 South McLean, Lincoln, IL, as the ''Edward Madigan Post Office Building,'' and for other purposes; to the Committee on Governmental Affairs.

THE EDWARD MADIGAN POST OFFICE BUILDING DESIGNATION ACT OF 1995

● Mr. SIMON. Mr. President, I am pleased to introduce, along with Senator MOSELEY-BRAUN, a bill to designate the post office of Lincoln, IL, as the Edward Madigan Post Office Building.

I served with Ed Madigan in the Illinois Legislature, where we worked on a variety of things together, and then I served with him in the House here in Washington.

He was one of those people who had common sense and a graciousness about him that was infectious.

He knew how to disagree without creating hostility. He was a remarkable person.

When we had a vacancy in the office of Secretary of Agriculture, I called him and said I wanted to call President Bush's chief of staff in Ed Madigan's behalf unless he had an objection. He had none, and I was pleased to call John Sununu and tell him that if they wanted someone who could get along with Democrats and Republicans and still do a very good job, they could not do better than Ed Madigan.

I am sure a great many people with much more influence than PAUL SIMON conveyed the same message.

It was typical of Ed Madigan that I called him, rather than the other way around.

He was a great public servant, but even more important than that, he was just a genuinely fine human being.

I am pleased to introduce this legislation. My only regret is that Ed Madigan is not around to see this building designated for him. He was proud of his hometown of Lincoln, and I know the people in Lincoln are proud of him.

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 907

At the request of Mr. MURKOWSKI, the names of the Senator from Idaho [Mr. KEMPTHORNE] and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 907, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws.

S. 1074

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1074, a bill to amend the Public Health Service Act to provide for expanding and intensifying activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases with respect to lupus.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1279

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1279, a bill to provide for appropriate remedies for prison condition lawsuits, to discourage frivolous and abusive prison lawsuits, and for other purposes.

S. 1344

At the request of Mr. HEFLIN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1344, a bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes.

S. 1423

At the request of Mr. GREGG, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1423, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes.

S. 1429

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1429, a bill to provide clarification in the reimbursement to States for federally funded employees carrying out Federal programs during the lapse in appropriations between November 14, 1995, through November 19, 1995.

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 1429, supra.

At the request of Mr. DOMENICI, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1429, supra.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Commerce Committee on Indian Affairs will hold an oversight hearing on the Native American Graves Protection and Repatriation Act, Public Law 101–601. The hearing will take place at 9:30 a.m. on December 6, 1995, in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a joint hearing with the Committee on Labor and Human Resources regarding OSHA reform on Wednesday, December 6, 1995, at 9:30 a.m., in room 106 of the Dirksen Senate Office Building.

For further information, please contact Melissa Bailey at 224–5175.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing regarding proposals to strengthen the SBIC Program on Tuesday, December 12, 1995, at

9:30 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Louis Taylor at 224–5175.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, December 12, 1995, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 873, a bill to establish the South Carolina National Heritage Corridor; S. 944, a bill to provide for the establishment of the Ohio River Corridor Study Commission; S. 945, a bill to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor; S. 1020, a bill to establish the Augusta Canal National Heritage Area in the State of Georgia; S. 1110, a bill to establish guidelines for the designation of national heritage areas; S. 1127, a bill to establish the Vancouver National Historic Reserve; and S. 1190, a bill to establish the Ohio and Erie Canal National Heritage Corridor in the State of Ohio.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the benefit of Members and the public that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources has scheduled a hearing on several measures relating to the Bureau of Reclamation.

The measures are:

S. 901.—To amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of certain water reclamation and reuse projects and desalination research and development projects, and for other purposes;

S. 1013.—To amend the act of August 5, 1965, to authorize the Secretary of the Interior to acquire land for the purpose of exchange for privately held land for use as wildlife and wetland protection areas, in connection with the Garrison Diversion Unit Project, and for other purposes;

S. 1154.—To authorize the construction of the Fort Peck Rural Water Supply System, to authorize assistance to the Fort Peck Rural Water County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes;

S. 1169.—To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize construction of facilities for the reclamation and reuse of wastewater at McCall, ID, and for other purposes; and

S. 1186.—To provide for the transfer of operation and maintenance of the Flathead irrigation and power project, and for other purposes.

The hearing will take place on Wednesday, December 13, 1995 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

Those wishing to testify or submit written statements for the record should contact James Beirne at (202) 224–2564 or Betty Nevitt at (202) 224–0765 of the subcommittee staff or write the Subcommittee on Forests and Public Land Management, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

NOTICE OF INTENTION TO AMEND THE STANDING RULES OF THE SENATE

Mr. LOTT. Mr. President, for the information of our colleagues, the Senator from Arizona [Mr. MCCAIN] and I ask unanimous consent that the text of a resolution which would make technical corrections to the Senate's gift rule.

There being no objection, the text was order to be printed in the RECORD, as follows:

S. RES.—

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 ''107(2)'' and inserting ''190(5)''; 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''.

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

● Mr. MCCONNELL. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for William Triplett, a member of the staff of Senator BENNETT, to participate in a program in the Philippines sponsored by the Rotary Club of Makati-Legazpi from December 2–8, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Triplett in this program.●

TRIBUTE TO MAURICE ROSENBERG

● Mr. HEFLIN. Mr. President, Maurice Rosenberg, who passed away late last summer, was a well-known advocate for judicial reform on the State and Federal levels of government. He was a professor at Columbia University's School of Law. I had the great pleasure of working with him extensively over the years on the issues of court reform and judicial administration. He had a keen legal mind that led him to contribute enormously to our system of jurisprudence.

During his 39-year tenure as a professor at Columbia, Dr. Rosenberg wrote and lectured extensively on the legal system, particularly on issues of procedure and access to the courts. He had an intense dislike for the staggering increase in cases which clog the courts and proposed measures to help ease the burden. One of his recommendations was to replace juries in small-claims cases with arbitrators. During a 1977 interview, he questioned the effect on society as a whole of people being so quick to sue each other in court.

Between 1971 and 1975, Dr. Rosenberg headed the Advisory Council on Appellate Justice and was later on the Council on the Role of the Courts. In 1979, President Carter appointed him Assistant Attorney General in charge of the Office for Improvements in the Administration of Justice. Previously, he had served on the mayor's committee on the judiciary in New York City. In 1980, he was appointed by Chief Justice Warren Burger to the Federal Advisory Committee on Rules of Civil Procedure, on which he served until 1987. A graduate of Syracuse University, he received his law degree from Columbia.

Dr. Rosenberg was an outstanding court scholar, professor, and lawyer who early on foresaw what is now called the litigation explosion. He acknowledged that part of the increase in litigation and in the law's complexity was due to greater public awareness of rights and a willingness to try them out in court. He once said, ''That is certainly preferable to having them tested in the streets.'' But he also felt that law schools should do more to sensitize students to possibilities other

than simply adopting an adversarial frame of mind.

Maurice Rosenberg will long be remembered as one of this century's legal giants. His contributions to the field of jurisprudence will be lasting and will guide scholarly thought for decades to come. I extend my sincerest condolences to his family in the wake of their tremendous loss.●

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

CANADIAN FOOTBALL LEAGUE CHAMPION BALTIMORE STALLIONS

Ms. MIKULSKI. Mr. President, my hometown of Baltimore has always been a great sports city. We have a tradition of excellence in baseball with the Orioles, and last summer we celebrated the magical endurance streak of Cal Ripken, Jr.

I am proud to say that a new chapter in our tradition of sports excellence was written on November 19, 1995. The Baltimore Stallions defeated the Calgary Stampeders for the Canadian Football League's championship, the Grey Cup. The Grey Cup is the ultimate achievement in the CFL, and it will now reside in the United States for the first time in the 106-year history of the league.

To win the Grey Cup, a team must combine tremendous athletic ability with leadership, and come together as a team. Last year the Stallions gave the fans their best effort, but came up short for the CFL championship. This year was going to be different. The Stallions came back with renewed intensity and desire. Their goal was to bring the Grey Cup to Baltimore, and they worked until their dream became a reality.

The Stallions' victory gives Baltimore three championships in three professional football leagues. The Stallions join the National Football League's Colts and the U.S. Football League's Stars as Baltimore champions.

I want to extend my congratulations to the owner of the Stallions, Jim Speros, and his dedicated players and coaches. They truly deserve this championship, and they have made Baltimore proud.●

IRONY ABOUNDS AS RETIRED OHIO SENATOR BEMOANS BROWNS' FATE

● Mr. SIMON. Mr. President, there is no one with whom I have served in my years in Congress for whom I have greater respect than Senator Howard Metzenbaum, our former colleague from Ohio.

One of the few issues where we differed was on the antitrust exemption for professional baseball.

The recent moves of professional football teams, particularly the movement of the Cleveland Browns to Baltimore, suggests that the antitrust exemption for baseball may be a very good thing for professional sports, as well as the communities involved.

Recently, a veteran sports writer for the Chicago Tribune, Jerome Holtzman, had a column about movement of the Browns and its relationship to antitrust baseball. I ask that this be printed in the RECORD. In fairness, I should add that the Chicago Tribune owns the Chicago Cubs, but I have no reason to believe that Jerome Holtzman is not writing from conviction.

The column follows:

[From the Chicago Tribune, Nov. 21, 1995]

IRONY ABOUNDS AS RETIRED OHIO SENATOR BEMOANS BROWNS' FATE

(By Jerome Holtzman)

Put in a call Howard Metzenbaum, the recently retired Democratic senator from Ohio, and had only one simple question.

After years of attempting to rid baseball of its antitrust exemption, what were his thoughts about his beloved Cleveland Browns moving to Baltimore?

''It's horrible,'' Mentzenbaum said from his office in Pompano Beach, Fla. ''It's a travesty. No community was more supportive of its team than the fans in Cleveland. I was back in Cleveland for one day and the feeling of outrage is unbelievable. And I've lived in Cleveland all my life—78 years.''

Certainly, he understood the Browns are able to pick up and hotfoot it to Baltimore because the National Football League does not have an antitrust exemption.

''That argument can be made,'' he conceded.

Yet, as the chairman of the Antitrust Committee of the Senate Judiciary Committee, he helped introduce legislation that sought to repeal baseball's exemption.

Doesn't he see the irony?

He is losing his hometown football team and if baseball didn't have antitrust protection, Cleveland also would have lost its baseball team. The Indians would have flown the coop years ago.

''I can't argue that,'' he replied. ''They could have been moved.''

He launched into a meaningless panegyric about the difference in ownership today compared with years ago:

''There are not the same kind of owners that were in the field yesteryear. Now, you're talking about multimillionaires who have a plaything. Before, it wasn't a question of making money. It was the pride of having a team in your community. Much of that doesn't exist anymore.''

It certainly seems that way. But the senator is naive. If he had read up on baseball history he would discover most owners have been motivated by money, beginning with the 1869 Cincinnati Red Stockings, baseball's first professional team. To increase attendance, the owner encouraged the players to open with a song:

''We are a band of baseball players
From Cincinnati City;
We come to toss the ball around
And sing to you our ditty;
And if you listen to the song
We are about to sing,
We'll tell you all about baseball
And make the welkin ring.
The ladies want to know
Who are those gallant men in
Stocking red, they'd like to know.''

The only owner in my time who appeared mostly to be a gentleman sportsman was the late Philip K. Wrigley, the longtime caretaker of the Cubs. He didn't need the money because the gum business kept him and his family in vittles.

Metzenbaum was asked if, in his opinion, anything could be done to prevent the Browns from moving to Baltimore?

''The league won't do much,'' he acknowledged. ''If push comes to shove they'll probably be able to move the team.''

But if professional football had the exemption, the carpetbaggers couldn't move their franchises at will. They couldn't transplant without the approval of a majority of their fellow owners. And so the owners jump around like flies, forever devouring the sweetest fruit, a movable feast.

In the last 13 years, the Oakland Raiders have navigated a round trip—to Los Angeles and back to Oakland. The Los Angeles Rams are now in St. Louis. The Baltimore Colts are in Indianapolis. The Phoenix Cardinals were previously based in St. Louis. The Houston Oilers are enroute to Nashville. And the shameless Mike McCaskey, president of our Bears, is threatening to relocate to Gary.

I can't resist mentioning all the baseball bashing since the players' 1994 strike that forced cancellation of the World Series. But which is preferable? A temporary baseball shutdown, with replacements on the field, or no team at all?

Because of its exemption, the baseball map is unchanged since 1972 when the Washington Senators were allowed to move to Texas. In the 23 years since, the San Francisco Giants were denied a ticket to St. Petersburg, Fla. Minnesota's jump to Tampa was aborted, as was the White Sox to Denver, Oakland to Denver and Seattle to St. Petersburg.

The Pittsburgh Pirates and Cleveland Indians, when both were in poverty—the Pirates have yet to escape from the poor-house—repeatedly have sought greener fields. But they were ordered to stay put and could be sold only to local ownership groups. The Houston Astros now are threatening to move to somewhere in Virginia. Will they get permission? I doubt it.

''Fortunately, because of the events of the last four months everyone seems to better appreciate our position,'' said acting commissioner Bud Selig. ''In all the times I have testified in Washington, and especially before Sen. Metzenbaum, I emphasized the exemption has been good for our fans. It has enabled us to stabilize our franchises.''

I mentioned that I was planning to speak to Metzenbaum, formerly baseball's No. 1 congressional nemesis.

''Oh,'' said Selig, ''send him my best regards. And be sure to tell him that in the 26 years I've been in baseball the Indians tried to move out of Cleveland at least four times.''●

TRIBUTE TO CHARLES GOMILLION

● Mr. HEFLIN. Mr. President, Charles Goode Gomillion, who passed away on October 4 at the age of 95, will go down in history as the leader of the struggle to bring political power to the black majority of citizens in Tuskegee, AL. The case Gomillion versus Lightfoot ultimately yielded a landmark U.S. Supreme Court decision on the issue of redistricting. The decision in the case is also recognized by legal scholars as a major step forward in the dual causes of civil and voting rights.

Charles Gomillion will long be remembered as a pioneer who took a firm stand on principle and by so doing paved the way for major advances in the cause of equality. His legacy is

that of social progress; his political moderation and temperament present an outstanding example of how to work within the constitutional system to effect positive change. I extend my condolences to his family.

I ask that a New York Times article on the landmark remapping case be printed in the RECORD.

The article follows:

[From the New York Times]

CHARLES GOMILLION, 95, FIGURE IN LANDMARK REMAP CASE, DIES

(By Robert McG. Thomas, Jr.)

Charles G. Gomillion, who led the fight that brought political power to the black majority in Tuskegee, Ala, with the assistance of a landmark Supreme Court case that bears his name, died on Oct. 4 at a hospital in Montgomery, Ala. He was 95 and until his recent return to Tuskegee had lived the last 25 years in Washington and Roebling, N.J.

Mr. Gomillion, a native of Edgefield, S.C., had a long and distinguished career as a sociology professor and dean at Tuskegee University, but it was his role as a civic leader that made Charles Goode Gomillion a footnote to constitutional legal history in 1960.

As the president of the Tuskegee Civic Association, an organization he had helped found in 1941, he was the lead plaintiff in a suit that successfully challenged a blatant act of gerrymandering designed to exclude all but a handful of black voters from municipal elections.

Alarmed by a voter registration drive led by Mr. Gomillion's organization, the Alabama Legislature redrew the town's boundries in 1957, leaving Tuskegee University and all but a handful of black families outside the city limits.

What had been a perfect square was now a 28-sided figure that some likened to a snake and others to a sea dragon. Whatever the trope, the lines had been so skillfully drawn that although as many as 12 black voters remained inside a city that once had 5,400 black residents, not a single one of the city's 1,310 white residents had been excluded.

Mr. Gomillion and 11 other association members filed Federal suit seeking to bar Mayor Philip M. Lightfoot and other city officials from enforcing the state statute on the ground that it was a transparent effort to circumvent the 15th Amendment's voting guarantees. Two lower courts, citing a 1946 Supreme Court opinion by Justice Felix Frankfurter, ruled that such state action was beyond judicial review.

When the case, Gomillion v. Lightfoot, came before the Supreme Court in 1960. Justice Frankfurter, describing the new configuration as ''an uncouth 28-sided figure,'' found otherwise and so did all eight of his colleagues.

Deftly distinguishing Gomillion, from the 1946 case, which involved Congressional districts of unequal population in Illinois, Justice Frankfurter said the Tuskegee case involved ''affirmative action'' by legislature that ''singled out a readily isolated segment of a racial minority for special discriminatory treatment.''

He and seven other justices said that a statute that had the effect of disenfranchising black voters would be a violation of the 15th Amendment. Justice Charles E. Whittaker, suggesting that there would be no disenfranchisement since the excluded former Tuskegee residents could vote in county elections said it would instead be a violation of the 14th Amendment.

The case was sent back to District Court and the next year Judge Frank M. Johnson Jr. declared the statute was indeed unconstitutional.

The former city limits were restored and within years the black majority has taken over both the city and county governments, much to the consternation of Mr. Comillion, who served for a while on the school board.

A soft-spoken moderate who had worked quietly to enlist the support of liberal-minded white allies in Tuskegee, he was dismayed when a plan to integrate local schools was sabotaged by Gov. George C. Wallace. The Governor ordered the schools closed, creating such rancor that white residents created a private school, black radicals swept Mr. Gomillion and other moderates aside and in turn white families fled. Today, only a handful of white families remain in Tuskegee.

As his dream of a truly integrated community, with black and white leaders working together for the common good, died, Mr. Gomillion, who retired from Tuskegee in 1970, left, too.

Although his moderate approach was rejected by a majority of the black voters, at least one of the former radicals now regrets it.

''The man was right,'' Otis Pinkard said yesterday, recalling that he had once led the faction that opposed the Gomillion approach, ''We should not have run all the white families out of town.''

Mr. Gomillion is survived by a daughter, Gwendolyn Chaires of Roebling; three grandchildren; three great-grandchildren, and one great-great-grandchild.●

ON THE RETIREMENT OF LAUREN F. OTIS

● Mr. MOYNIHAN. Mr. President, I rise today to wish great congratulations to Lauren F. Otis, who retired Thursday, November 30, 1995, after 28 years of dedicated service to the city of New York's department of city planning.

Mr. Otis has been with the department of city planning since 1967, the last 11 as chief urban designer. In this capacity, he has acted as a consultant to the chairman and the city planning commission on a variety of urban matters while developing comprehensive studies of the five boroughs of New York City as an overall framework for individual projects. Prior to becoming the chief urban designer, Mr. Otis was a key member of a team of architectural professionals who developed new zoning and regulatory approaches for the development of Midtown Manhattan and the Wall Street area. Some of his individual urban design highlights include Times Square, the Citicorp Center and the Sliver Building zoning amendment.

A graduate of Harvard College and Harvard University School of Design, Mr. Otis served in the U.S. Navy Civil Engineer Corps from 1955–58 before moving to architectural design, working as a staff architect for I.M. Pei & Partners before joining the city of New York.

In addition to Mr. Otis' work in the department of city planning, his patronage of New York City's cultural spirit as mayor's representative to the New York City Art Commission between 1982 and 1992, the last 7 years as vice president, and as a representative to the New York City Historic Properties Fund deserves recognition.

Mr. President, I hope my colleagues will join me in wishing him the best of luck in his much deserved retirement.●

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

SOCIAL SECURITY DISABILITY WAITING PERIOD

● Ms. MIKULSKI. Mr. President, I rise today to make my colleagues aware of a very unfortunate situation involving Social Security disability benefits.

In our law, there is a 6-month waiting period before a Social Security disability applicant can receive payments. If a person is diagnosed with a deadly disease, and is eligible to receive Social Security disability, that person must wait 6 months before the payments arrive. This waiting period often comes at a time in a person's life when treatment must begin immediately. Many of these people simply cannot afford to wait. Far too often, the results of this forced waiting period are financial devastation for families.

One of my Maryland constituents, Mitchell Berman, was stricken by a terrible illness which required full-time care in a nursing home. Mr. Berman and his wife, Marjorie, were forced to sell nearly everything they owned to cover the health care costs. By the time Mr. Berman's payments began to arrive, it was too late; they had spent much of their life's savings. Mr. Berman's disease was not curable, and I am very sorry to say that he has died.

To honor the memory of her husband, Marjorie Berman has started her own crusade to make lawmakers and families aware of the financial effect the waiting period can have. I salute Marjorie Berman for her courage and her steadfast devotion to her husband.

Earlier this year, I encouraged the Senate Finance Committee to explore this issue. In today's political climate, I know that funding for many programs is being cut back and eligibility for some programs is being tightened.

But I encourage my colleagues to take a close look at this issue and ask if the Social Security disability waiting period is serving a useful Government purpose and responding to the needs of people. I also ask my colleagues to listen to the stories of their own constituents who have been affected by this waiting period and have not been able to get the help when they need it. I think my colleagues will find that the waiting period does not serve the needs of people.●

THE PROS KNOW WHY PRISON FAILS

● Mr. SIMON. Mr. President, I would like to draw my colleagues' attention to an op-ed written by Coleman McCarthy in the September 9, 1995, Washington Post.

In discussing prison policies, Mr. McCarthy draws an important distinction between professional and amateur

opinions. No matter how we like to flatter ourselves, Members of Congress are amateurs when it comes to understanding what works to reduce crime. The professionals are the people who work in prisons and the criminal justice system every day. Unfortunately, it is the amateurs who get to set policy, and, according to the professionals, we are doing a lousy job.

One year ago, I sponsored a survey of prison wardens asking for their views on our criminal justice and prison policies. Eight-five percent of the wardens said that most politicians are not offering effective solutions to crime. Instead of building more prisons and passing mandatory minimum sentencing laws, the wardens overwhelmingly favored providing vocational—92 percent—and literacy—93 percent—training to prisons, and 89 percent support drug treatment programs in prisons. Congress has been quick to defund these programs, and pour scarce resources into prison construction, in the rush to be tough on crime.

The reality is that most prisoners will at some point be released, and our goal should be to ensure that those released from prison do not return to a criminal lifestyle. The Huron House in Michigan, a community-based alternative sentencing program which Mr. McCarthy refers to his in his piece, costs less and is more effective at reducing recidivism than prisons.

In setting prison policies, we need to be more focused on what works. The best way to find out is to consult the professionals.

I ask that the full text of the op-ed be printed in the RECORD.

The material follows:

THE PROS KNOW WHY PRISONS FAIL

(By Coleman McCarthy)

PORT HURON, MICH.—Robert Diehl, who works with prisoners, believes it's time to get tough on crime. How? To begin with, not by longer sentences, not by building more prisons and not by agreeing with California Gov. Pete Wilson, who announced his presidential candidacy with the preachment that he'll ''appoint judges who know that it's better to have thugs overcrowding our jails than overcrowding your neighborhood.''

Diehl's philosophy of toughness involves the arduous and complex work of rescuing people with messed-up lives. He is the director of Huron House, a nonprofit, community-based alternative sentencing program for felony offenders. The three-story, 30-bed facility—located on a residential street in this small lakeshore community 60 miles north of Detroit—provides intensive 24-hour supervision and comprehensive services ranging from job training and job placement to mental health and drug counseling.

It isn't blind faith, much less addled thinking, that keeps Diehl going. In the 15 years he's been with Huron House, which opened in 1979, fewer than one in five men and women in the program has committed a new crime. The recidivism rate for the imprisoned is two out of three. It's $50 a day to cage a person in a Michigan prison, as against $35 a day to supervise a resident at Huron House.

In his office last week, Diehl, 53, described the futility of the current panic-button solutions to crime mouthed by one Pete Wilson or another: ''Michigan has been trying to build its way out of the crime problem for the past 12 years. We now have three times as many people in our prisons as 12 years ago. It doesn't work. There's been no reduction of crime, and there's no more perception of safety among our citizens. And prisoners' lives are not being changed for the better.''

The public faces a choice: Does it want to follow the counsel of such corrections officials as Diehl or place its trust in politicians who advocate spending money on chain gangs, boot camps, three strikes, death rows, mandatory sentencing—and investing less or no money in inmate education or job programs.

The choice was rarely more stark than a few weeks ago, when two groups met—one in Cincinnati, the other in Washington—to offer prescriptions for fighting crime. One group was the professionals, the other amateurs.

The pros were people who run the nation's prisons and jails and who belong to the 20,000-member American Correctional Association (ACA). The amateurs were such members of the Senate as Texas Republican Kay Bailey Hutchison, testifying before a Senate Judiciary Committee hearing on prison reform.

At the ACA conference in Cincinnati, those who toil behind the walls told of the frustration of doing politicians' dirty work and knowing all the time that longer sentences and meaner bastilles are counter-productive.

They listened to corrections officials who detailed the facts on how recidivism is reduced through community programs like Huron House and how the payoffs for public safety are in combinations of education, employment, drug treatment and punishment—not punishment alone.

Few people are wearier of quick-fix politicians than corrections professionals. Bobbie L. Huskey, the ACA president, states categorically that an ''overwhelming consensus'' exists among wardens that ''incarceration, in and of itself, does little to reduce crime or have a positive impact on recidivism.'' Huskey cites a poll conducted by the Senate Judiciary subcommittee on the Constitution in which 85 percent of the wardens surveyed said that most politicians are not offering effective solutions to crime. Ninety-three percent favor literacy and other educational programs, 92 percent vocational training and 89 percent are for drug treatment.

While the professionals who know struggle on, the amateurs who don't keep popping off. At the Judiciary Committee hearings in late July, Sen. Hutchison accused federal courts of creating ''comfort and convenience'' for criminals in prisons. That was news to the wardens.

In addition to criminal recidivists, it appears that we now have politician recidivists: the Wilsons and Hutchisons who lapse, relapse and relapse again into deadend thinking. Maybe they need a brief stretch at Huron House.●

LEGALIZED GAMBLING

● Mr. LUGAR. Mr. President, I would like to take this opportunity to inform my Senate colleagues on the progress of important legislation moving through Congress that addresses the issue of legalized gambling in America.

Legalized gambling today is proliferating at breathtaking speed, touching the lives of millions of Americans. Communities across the country are considering casinos, riverboat gambling, pari-mutuel racing, off-track betting, and other forms of wagering. Whereas only 2 States offered casino gambling in 1988, today 23 States have authorized casinos to operate. Overall, 48 States now permit some form of legalized gambling.

A steady stream of news accounts have chronicled the recent growth and expansion of gambling activities in America. Many of these stories describe the enormous profits generated almost overnight by gambling enterprises. Questions are being asked about decisions by State and local leaders to legalize gambling. People are concerned not only about the economic costs of these decisions, but of the human costs as well.

The Wall Street Journal, recently reported that some New Orleans public officials, retailers, and citizens are having second thoughts about the economic impacts of bringing riverboats, casinos, and video poker machines to Louisiana. The New York Times related the personal experiences of local residents in cities and towns across America who visit a casino instead of a restaurant or ballpark, who spend their grocery money on a nearby instant-play video lottery game, or who exhaust their personal or family savings at the casino tables.

In the face of this explosive growth, I joined Senator SIMON last April in support of legislation to establish a national commission to conduct an 18-month study on the effects of gambling. This measure, S. 704, would provide State and local governments with an objective, authoritative resource to use as a basis for making informed choices about gambling. S. 704 does not propose to further regulate gambling activities or to increase taxation of gambling revenues. The bill has been endorsed by the President and enjoys bipartisan support in the Senate with a total of 11 cosponsors, including Senators GORTON, KYL, LIEBERMAN, GRASSLEY, WARNER, FEINSTEIN, HATFIELD, KASSEBAUM, HATCH, and COATS.

The Governmental Affairs Committee on November 2 conducted a hearing on S. 704. Senator SIMON and I testified before the committee along with several other Members of Congress and outside experts concerned about this important issue. I am hopeful the committee will approve this important legislation before the conclusion of this session.

Companion legislation was introduced in the House of Representatives by Congressman WOLF of Virginia. The House Judiciary Committee held hearings on Representative WOLF's bill, H.R. 497, and approved the measure by voice vote on November 8. Prospects are good for passage by the full House during the 104th Congress.

The Washington Post, in a September 22, 1995, endorsement of the gambling study commission proposal, stated that,

Those pushing casinos into communities make large claims about their economic benefits, but the jobs and investment casinos create are rarely stacked up against the jobs

lost and the investment and spending forgone in other parts of a local economy. The commission's study could be of great use to communities pondering whether to wager their futures on roulette, slot machines and blackjack.

As evidence of the desirability for a comprehensive study of the gambling issue, I ask that the following Chicago Tribune article from November 29, 1995, be printed in the RECORD.

The article follows:

[From the Chicago Tribune, Nov. 29, 1995]

RISKY BUSINESS: CAN GAMING WIN IN CITIES?—CHICAGO MAY GET TIP FROM NEW ORLEANS

(By Ken Armstrong)

The way casinos have flopped in New Orleans may drive other cities to flip in their views toward gaming, but Chicago still looks like a viable gambling market, according to financial analysts.

As the country's first major city to introduce large-scale gaming, New Orleans was to be a model demonstration of casinos creating tax dollars and jobs. What transpired instead were budget shortfalls, unrealized promises and the threat of municipal layoffs.

''I think there were many municipalities watching this project as an experiment in urban gaming,'' said Jason Ader, a gaming analyst with Bear Stearns & Co. in New York. ''And the fact that it has effectively failed casts a dark cloud over other urban markets considering gaming as an economic engine.''

Harrah's Jazz Co. shut its temporary casino in New Orleans last week and declared bankruptcy. Harrah's Jazz also suspended construction on its permanent casino, which was slated to open in New Orleans next summer.

No longer able to count on lease and tax payments from the casino, New Orleans faces a budget shortfall and has postponed the sale of $15.8 million in general obligation bonds. Mayor Marc Morial said he may have to lay off as many as 1,000 city employees.

Gaming opponents have latched on to the debacle, using it to argue that other cities pursuing casinos would be wise to give up the chase.

Tom Grey, a Galena, Ill., minister spearheading the anti-gambling movement nationwide, said there's reason to believe that what happened in New Orleans would be replayed in Chicago, where Mayor Richard Daley has pushed hard for casinos.

But several financial analysts who specialize in gaming say it isn't necessarily so.

''Everybody in the industry knows Chicago and New York would be layups if they had casinos there,'' said Steve Schneider, an analyst with Stifel Nicolaus & Co. in St. Louis.

He estimated that casinos in Chicago could generate $800 million to $1 billion in gross profits without cutting heavily into the revenues of nearby riverboat casinos.

Daley spokesman Jim Williams said the mayor still views casinos as a good way to attract convention-goers and increase tax revenue for the city and state.

But he added: ''The mayor has never seen gaming as a panacea. He's been steadfast in his belief that it should never be seen as a primary source of income.''

What happened in New Orleans would more likely give pause to marginal markets for gaming such as Milwaukee or Cleveland, Schneider said. The poor performance of the New Orleans casinos also will make it more difficult for gaming companies to secure project financing for future developments, he said.

Brian Ford, director of gaming industry services at Ernst & Young in Philadelphia, said New Orleans hardly proves that casinos can't flourish.

With video-poker machines in truckstops, casinos on riverboats and what would have been one of the world's largest land-based casinos, Louisiana tried to do too much with too small a population base, Ford said.

The shutdown of Harrah's Jazz was New Orleans' second losing hand.

Another project with two riverboat casinos—the $223 million River City complex—closed in June after opening just nine weeks before. Analysts blamed its failure, like that of Harrah's temporary casino, largely on its location.

The riverboat complex was built in an industrial area where its neighbor is Glazer Steel & Aluminum—hardly a tourist draw. A thousand feet of head-high weeds, tractor trailers, piles of gravel and an abandoned Chevette with smashed-in windows separate the complex from the edge of the city's downtown area.

David Anders, a gaming analyst with Raymond James & Associates in St. Petersburg, Fla., said New Orleans shows that while state and municipal governments should rightfully profit from a casino, they shouldn't make the casino's financial burden so great it can't survive.

Harrah's Jazz paid $125 million up front as a franchise fee for the state's only land-based casino and promised payments of at least $100 million a year to the state, regardless of financial performance.

The company's principal partner is Memphis-based Harrah's Entertainment Inc., which grew from a bingo parlor in Reno during the Depression to an industry giant with casinos in all of the country's major gaming markets.

Ralph Berry, a Harrah's Entertainment spokesman, said Harrah's Jazz still wants to open the permanent casino and will try to renegotiate the casino agreement with the state, city and lenders. Critics have accused Harrah's Jazz of using the bankruptcy filing as leverage for more attractive terms.●

NATIONAL VETERANS DAY AND ADDRESS BY ADM. LEIGHTON W. SMITH, JR.

Mr. HEFLIN. Mr. President, Birmingham, AL has always conducted outstanding Veterans Day events. Each year, the ceremonies commence on the night of November 10, the day before Veterans Day, when a banquet is held to remember our veterans and to formally honor the National Veterans Award recipients.

This year, National Veterans Day in Birmingham sponsors, which include 16 of the national veterans organizations, decided to present the award to 5 World War II Congressional Medal of Honor winners. They were Adm. Eugene Fluckey of the U.S. Navy; Capt. Maurice Britt, U.S. Army; and PFC Jack Lucas, U.S. Marine Corps. There were two members honored from the Air Force, which during World War II was still the old Army Air Corps. They were Col. William T. Lawley and M.Sgt. Henry Eugene Erwin, both Alabama natives. There are a total of five surviving World War II veterans who served in the Army Air Corps and who are Congressional Medal of Honor winners, and we are proud that two of them hail from Alabama. Douglas Albert Monroe, signalman first class in the U.S. Coast Guard was honored posthumously.

On Veterans Day itself, Birmingham hosts the World Peace Luncheon, which this year featured Adm. Leighton W. Smith, Jr., of the U.S. Navy as its distinguished guest speaker. Born in Mobile, Admiral Smith is the commander, U.S. Naval Forces in Europe and commander in chief, Allied Forces in Southern Europe. He was appointed to these posts in April 1994.

He was promoted to vice admiral in June 1991, and served for 2½ years as deputy chief of naval operations for plans, policy, and operations. He was a major contributor to Navy staff reorganization and the development of From the Sea, the Navy's strategy for the 21st century.

I ask that a copy of Admiral Leighton's outstanding address delivered at the World Peace Luncheon be printed in the RECORD.

The material follows:

ADDRESS BY ADM. LEIGHTON W. SMITH, USN, COMMANDER IN CHIEF ALLIED FORCES SOUTHERN EUROPE, COMMANDER IN CHIEF U.S. NAVAL FORCES EUROPE

Senator, Congressman, distinguished veterans, those of you who have worked so hard to put on this celebration, good morning.

No one knows better than I the value of and the sacrifices made by those we left behind.

I am distinctly honored to add my thoughts to those of the many distinguished speakers who have appeared here in previous years.

I doubt I can adequately express my gratitude for having been invited to join fellow Alabamians to pay tribute to our veterans—both those that have joined us here today and those who have gone before us.

It is absolutely right that we pause to reflect on what this day means—what it signifies—what it cost—and why, as Senator Heflin said last night, ''The Strength of our Nation Must Never Be Allowed to Atrophy''.

Few gathered here today can recall the first Armistice Day or the terribleness of the war it commemorated. Time has distanced us from the horror of that conflict.

It was the war to end all wars—but history reminds us that it really wasn't.

Other wars, conflicts and crises have followed, all evidencing the common denominators of destruction and death, but also individuals whose commitment, courage and personal sacrifices have continued to inspire us all.

Senator John Kerry, in speaking at the retirement of our Navy's Vietnam era swift boats, said:

''We were all bound together in the great and noble effort of giving ourselves to something bigger than each and every one of us individually, and doing so at risk of life and limb. Let no one ever doubt the quality and nobility of that commitment.''

Those words could have been spoken about our veterans who served in the trenches of France, at Pearl Harbor and Bataan, at Midway, Normandy and Iwo Jima.

They would have been true at Inchon and the Frozen Chosin, in the jungles and skies of Vietnam, the deserts of Kuwait and Iraq and in other unnamed places where ordinary people do extraordinary things and in so doing, honor their country while preserving the ideals and values for which it stands.

Last year I attended commemorative ceremonies at Normandy.

As I sat waiting for the program to begin, I spotted an usher, a young soldier no more than 18 years old, my he looked so young.

It suddenly dawned on me that this boy was the very same age as many of the men who, 50 years ago, had crawled across those bloody beaches and clawed their way up those terrible cliffs, each staring death square in the face.

Some survived, all were heros, but tragically so many were mown down in the springtime of their youth, their lives ended before they had really begun.

I was awed. What tragedy; what tragedy to rob a nation of its youth, to take a son or daughter from a father, mother, a sister or brother, a husband or wife. What tragedy to deny one so young the joys and excitement of life; the warmth of love, the thrill of watching one's children grow.

But then I thought, what if they had not?

Somehow seeing that young soldier made all those grave markers in that cemetery even more real, more alive. It literally slammed home in me the utter cruelty of war, the awfulness of what man can do to man, and equally as important, the enormous gift that all of those who experienced the terribleness of that war gave to us.

I am told that somewhere in Burma there is a marker inscribed with the message: ''We gave our todays so you could enjoy your tomorrows.''

Those of us gathered here today, and in other places around our country, honor the veterans whose legacy of honor, courage and commitment should not, and shall not, ever be forgotten.

Let me tell you that the actions of the young men and women of your Armed Forces tell me that they are, as Colin Powell said in an address here a few years back: ''worthy successors to what you their predecessors have passed on to them.''

You may all have heard of Capt. Scott O'Grady. He was shot down over Bosnia on 2 June.

On the night of 7 June his squadron mate went on a ''fishing expedition'' to try to contact Scott.

At 0200 he got contact with Scott O'Grady. I immediately called the amphibious commander, Jerry Schill and the Marine commander Marty Berndt. Both were on the U.S.S. *Kearsarge* in the Adriatic.

I told them to close the coast/call away your tactical recovery of aircrew and personnel team.

Didn't ask if—just when.

We discussed risks and the possibility of a trap being set.

I told Colonel Berndt you're in charge, look around, if you don't like what you see, come out.

These were educated risks, and we were operating on the edge of the envelope.

Four hours and thirty seven minutes—I got a call, one word—''pickup''.

Not many understand all that occurred.

We had 60 fixed wing aircraft, special operations backup rescue, Marines backup to that.

Went next day to visit, *Aviano*, *Vicenza*, U.S.S. *Kearsarge*:

There were no complaints, in spite of the mission being early morning, complex, risky.

They thanked me for letting them go.

Says a lot about courage, honor, commitment.

The same characteristics were demonstrated in attempts to locate and rescue the French pilots shot down 30 August.

Plan was developed to recce area of shootdown.

At 0130 I got a call from Mike Ryan.

Same coordination and complexity as the O'Grady rescue.

We tried three successive nights.

All three attempts experienced bad weather, all were shot at.

That this rescue was not consummated in no way detracts from the courage and commitment of those who tried.

These are wonderful stories, and I relive the excitement of those moments each time I tell them.

But the important thing here is that these are real stories about real people who demonstrate, every single time they are asked, the legacy of their predecessors and the strength of our great nation.

There are, in fact, two kinds of strengths. One is capability, and one is character.

Capability is the mechanics, it is the equipment. The machines, the steel, the weapons, the computers, the number of battalions that can be fielded, capability is what we think of when we think of the force.

Character, on the other hand, comes from the commitment of the people. It is the moral fabric that binds a nation together, that gives it purpose and defines its identity.

Yet as different as capability and character seem, it is their combination that makes a nation strong, that empowers it to greatness, that enables it to lead.

I would argue that a nation's strength and greatness is not fully tested until severely stressed, ours has, and we have never been found wanting.

Our veterans defined our strength for us and the memory of what they did gives us strength today.

Joseph Conrad said:

''And now the old ships and their men are gone; the new ships and men have taken their watch on the stern and impatient sea which offers no opportunities but to those who know how to grasp them with a ready hand and an undaunted heart.''

While we thank God for what the old ships and men gave us.

I offer to you, our honored veterans that your worthy successors, the veterans of tomorrow, possess ready hands and undaunted hearts.

They have learned well from your deeds.

We owe you, we owe you a lot. We owe you our thanks, our admiration, and our respect, and we owe you the promise that we shall never allow to be forgotten the deeds performed, nor what you preserved for us.

Your legacy of courage, honor and commitment has been received and will be passed on to future generations.

This has been a singular honor for me and I am grateful to you all for allowing me to join you on this very special occasion.●

CONFERENCE REPORT ON H.R. 1977

● Mr. MACK. I would like to engage in a colloquy with my colleague from Kentucky, Senator MCCONNELL. Activities funded under the Department of Energy's Codes and Standards Program are primarily concentrated in two subprograms known as Lighting and Appliances and Building Standards and Guidelines. However, as is clear in the Department of Energy's budget, its activities within these two programs extend to areas outside of that which might be assumed under their titles. This would include setting standards for commercial equipment electric motors, as well as the advocacy of minimum energy codes for residential buildings. Therefore, it was my understanding that the intent of the amendment to H.R. 1977 that placed a 1-year time-out on Department of Energy's use of funds to propose, issue, or prescribe any new or amended standard would extend to Department of Energy's activities in advocating changes to minimum codes for residential energy use.

Mr. MCCONNELL. My colleague is correct. While not specifically spelled out in the statutory language of H.R. 1977, it was my intent that this 1-year time-out extended to the entire program as it related to the establishment of minimum standards and codes. I had hoped that this clarification would be made in the conference report, but since there is no report language addressing this issue, I feel it necessary to clarify it here for the record. Indeed, product manufacturers have raised concerns over the methodology and assumptions in Department of Energy's current cost benefit analysis. Similarly, builders have raised concerns over the minimum mandatory standards found in codes enacted by local municipalities or States that use the voluntary products of code and standard organizations over which Department of Energy has significant influence. Builders have told me that these standards are often not responsive to technological innovation, customer needs, or economic consideration of affordability or payback. Therefore, just as there needs to be a time out to review standards-setting activities conducted by the Department of Energy, the same review should apply to its activities relating to residential building codes.

Mr. MACK. I appreciate this clarification. Indeed, considering that the House language eliminated funding for the entire Codes and Standards program, the intent is clear that the House aimed to institute this 1-year time out on Department of Energy's activities in the standards arena as well as in standards which are part of the codes as well as the standards arena. I think it is important that, since the House agreed to recede to Senate language on this issue, which restored the funds cut by the House, that the Senate ensure that the spirit of the House language be carried out.

Mr. MCCONNELL. I would also point out that as means of reaching agreement on Senate language, I was asked to include a caveat stating that the Federal Government was not precluded from promulgating rules concerning energy efficiency standards for the construction of new federally owned commercial and residential buildings. By expressly carving out federally owned buildings, this would indicate further that standards and codes for all other buildings, and thereby privately owned structures, would be covered. It should also be clear that it is not the intent of this language to prevent promulgation of the national Home Energy Rating System voluntary guidelines.●

ORDERS FOR TUESDAY, DECEMBER 5, 1995

Mr. DEWINE. Seeing no other Members of the Senate who wish to speak, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Tuesday, December 5; that

following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and under the previous consent agreement, the Senate then begin consideration of the conference report accompanying H.R. 1058, the securities litigation bill.

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

Mr. DEWINE. Mr. President, I further ask unanimous consent that on Tuesday, the Senate stand in recess between the hours of 12:30 and 2:15 for the weekly policy conferences to meet.

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

PROGRAM

Mr. DEWINE. Mr. President, for the information of all Senators, on Tuesday there is an 8-hour time limitation for debate on the securities litigation conference report. Senators can therefore expect a rollcall vote on the conference report at the expiration or yielding back of that debate time.

Following that vote, it is expected that the Senate will resume consideration of H.R. 1833, the partial-birth abortion bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DEWINE. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:44 p.m., adjourned until Tuesday, December 5, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, December 4, 1995:

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

SUSAN R. BARON, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1997. (REAPPOINTMENT)

COMMUNICATIONS SATELLITE CORPORATION

BARRY M. GOLDWATER, SR. OF ARIZONA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1998. (REAPPOINTMENT)

PETER S. KNIGHT, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1999. (REAPPOINTMENT)

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL IN THE U.S. NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JOHN J. MAZACH, 000–00–0000.

IN THE MARINE CORPS

THE FOLLOWING-NAMED BRIGADIER GENERALS OF THE U.S. MARINE CORPS RESERVE FOR PROMOTION TO THE GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF SECTION 5898 OF TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. JOHN W. HILL, 000–00–0000
BRIG. GEN. DENNIS M. MC CARTHY, 000–00–0000

THE FOLLOWING-NAMED BRIGADIER GENERALS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. THOMAS A. BRAATEN, 000–00–0000
BRIG. GEN. MICHAEL P. DELONG, 000–00–0000
BRIG. GEN. EDWARD HANLON, JR., 000–00–0000
BRIG. GEN. GEOFFREY B. HIGGINBOTHAM, 000–00–0000
BRIG. GEN. GEORGE M. KARAMARKOVICH, 000–00–0000
BRIG. GEN. JACK W. KLIMP, 000–00–0000

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE.

LINE

To be lieutenant colonel

WILLIAM C. ALFORD, 000–00–0000
GEORGE A. CIBULAS, 000–00–0000
MARK S. DAY, 000–00–0000
ROBERT L. EDLUND, 000–00–0000
KATHLEEN E. FICK, 000–00–0000
MICHAEL D. GREGORY, 000–00–0000
DANIEL F. HAGGERTY, 000–00–0000
MARK Y. HANCOCK, 000–00–0000
WILLIAM E. HOY, 000–00–0000
DENNIS J. KUGLER, 000–00–0000
EUGENE A. MARTIN, 000–00–0000
WILLIAM B. MOOSE, JR., 000–00–0000
SAMUEL W. PATELLOS, 000–00–0000
TERRY W. SCHNEIDER, 000–00–0000
TIMOTHY W. SCOTT 000–00–0000
PAMELA J. SIMONITSCH, 000–00–0000
RICHARD M. YANULIS, 000–00–0000
ROBERT J. YAPLE, 000–00–0000

JUDGE ADVOCATE GENERALS DEPARTMENT

To be lieutenant colonel

MARK S. COLLINS, 000–00–0000

CHAPLAIN CORPS

To be lieutenant colonel

GARY K. ODLE, 000–00–0000

MEDICAL CORPS

To be lieutenant colonel

GREGORY F. BREDEMEIER, 000–00–0000
RICHARD A. SMITH, 000–00–0000

NURSE CORPS

To be lieutenant colonel

LINDA S. MITCHELL, 000–00–0000

THE FOLLOWING-NAMED OFFICERS, OF THE ACTIVE DUTY LIST, FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531 OF TITLE 10, U.S.C., WITH A VIEW TO DESIGNATION IN ACCORDANCE WITH SECTION 8067 OF TITLE 10, U.S.C. TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

ROGELIO F. GOLLE, 000–00–0000

MEDICAL CORPS

To be lieutenant colonel

SUSAN P. ABERNATHY, 000–00–0000
BRANT CASFORD, 000–00–0000
DAVID N. KENAGY, 000–00–0000
ROBERT A. MUNSON, 000–00–0000

DENTAL CORPS

To be lieutenant colonel

HERMAN S. DICKERSON, 000–00–0000
RAYMOND W. KAERCHER, 000–00–0000
LISA D. RACKLEY, 000–00–0000
ROBERT C. ZALME, 000–00–0000

MEDICAL CORPS

To be major

PHILIP J. LAVALLEE, 000–00–0000

DENTAL CORPS

To be major

JEFFREY M. SWARTZ, 000–00–0000

THE FOLLOWING AIR FORCE OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR U.S. AIR FORCE ACADEMY, UNDER SECTION 9333(B) AND 9336 OF TITLE 10, U.S.C.

LINE

To be colonel

MICHAEL L. DELORENZO, 000–00–0000