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ent, unbiased laboratory science is a sounder group upon which to rest our decisions than nonscientific opinions put forth by the media and special interests.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, morning business is closed.

NATIONAL AND COMMUNITY SERVICE ACT OF 1989

The PRESIDENT pro tempore. The Senate will now resume consideration of S. 1430, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1430) to enhance national and community service, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDENT pro tempore. The pending question is the committee substitute, as modified.

Mr. KENNEDY. Mr. President, we are prepared to move ahead with a series of amendments. We invite our colleagues to bring their amendments to the floor. We look forward to debating them and, hopefully, disposing of them.

(Mr. ROBB assumed the chair.)

Mr. SPECTER. Mr. President, I know Senator McConnell is on the floor and intends to offer an amendment, but I would like to make a very brief statement in support of the bill prior to Senator McConnell seeking the floor.

Mr. President, as a cosponsor of the National and Community Service Act, S. 1430, I support the pending compromise legislation which would provide \$125 million to encourage individuals to engage in service to their communities across the Nation.

I have seen firsthand how the kinds of programs this bill would support can help economically disadvantaged youth and other high-risk young people not only to stay drug-free, but also to gain the basic skills necessary to make it in college or in the job market. Last September I had the honor of participating in the Commonwealth of Pennsylvania's First Annual Student and Youth Service Celebration at Fairmont Park in Philadelphia. This celebration was designed to recognize the achievement of summer youth corps and other summer community service groups and to kick off the many school and college-based student volunteer programs which would be active in community service during the new school year. This important event helped focus public attention on the impact which the thousands of youth volunteers throughout Pennsylvania have had on their communities and encouraged young people to continue as active citizens.

Pennsylvania is fortunate in that numerous school- and community-based

organizations are active throughout the State. A fall 1988 survey by PennSERVE, the State's Office of Citizen Service, showed that 240 out of 501 Pennsylvania school districts have community service programs. The participants in these programs meet a variety of needs within their communities including landscaping public gardens, cleaning up neighborhoods, tutoring and counseling, and providing companionship for infirm elderly persons.

The citizens of Pennsylvania also are well served by several youth corps programs. The Pennsylvania Conservation Corps, the second largest full-time service corps in the Nation, has provided invaluable education, job training, and life skills to 8,000 young people. After a term of service with the corps, more than 70 percent of participants moved directly into private sector jobs, the military, or back into school. The Philadelphia Youth Service Corps and the Philadelphia Ranger Corps provide more than 100 Philadelphia youth with full-time service opportunities as well. Recently, the State has initiated the Urban Service Corps Program in Pittsburgh and in McKeesport, serving 200 youth each year. These local programs are strongly supported by the National Association of Service and Conservation Corps.

Mr. President, I strongly believe that official recognition of the invaluable contributions made by volunteers is a fitting tribute. In this regard, last week I wrote to the Labor and Human Resources Committee chairman, Senator KENNEDY, and the ranking minority member, Senator HATCH, urging that the committee amendment to S. 1430 include an appropriate awards provision. I am pleased that the compromise legislation pending before us today includes the establishment of a Commission on National and Community Service which would be authorized to make Presidential awards for service to individuals demonstrating outstanding community service and to outstanding service programs. In addition, the bill would authorize the establishment of a Points of Light Initiative Foundation, which also would accord appropriate recognition for extraordinary volunteer efforts.

As a cosponsor of S. 1430, I have worked to promote and expand opportunities for volunteer service at all levels of society. It is my sense that there are many individuals who already possess the will to volunteer and that passage of S. 1430 will provide them necessary encouragement and support. The Nation's volunteers have proven time and again that they can make invaluable contributions to their communities. The passage of the National and Community Service Act will help to stimulate new interest in volunteerism and provide new and existing volunteers the support they deserve. Accordingly, I urge my colleagues to join in support of this vital legislation.

Mr. President, the national and community service legislation is an important measure and I have cosponsored this bill. There are so many problems in our Nation which cannot be reached by Government that it is absolutely indispensable that volunteers in an independent way undertake to address many of these problems.

I have had the opportunity in recent days to work with a very distinguished group of volunteers in the city of Philadelphia, led by a distinguished Philadelphian, Mr. Herman Rice. This group is seeking to take back the street corners from the drug dealers, to provide voluntary day care services, to provide youth counseling, and, in effect, to supplement what the police force of the city can possibly do.

I had an opportunity to meet with a large group in north Philadelphia recently and another large group in west Philadelphia recently. I commend the activities that Mr. Herman Rice and his colleagues are undertaking in that regard. I mention it because it is illustrative of the vital role for volunteerism and community services. There simply are not enough police to be on every street corner, and not enough child care, counseling, and guidance services available. But when community activity is undertaken, that is really a unique way to move in a very forceful direction and to address the problem head on.

Mr. President, there was an excellent editorial in the Philadelphia Inquirer on a subject called Mentoring, where again it is illustrative of community actions, where citizens are volunteering their time.

I ask unanimous consent, at the conclusion of my comments, that this editorial be printed in the RECORD.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, there is another very outstanding community group called the Retired Senior Volunteer Program of Montgomery County where more than 1,300 volunteers provided nearly 160,000 hours of service to hospitals, nursing homes, shelters, libraries, schools, rehabilitation centers, and museums. At the minimum wage, this would represent nearly \$700,000 that the Federal Government and the administrators of these agencies did not have to spend.

I could talk at some length, Mr. President, about this excellent organization, but since Senator McConnell is on the floor waiting to proceed with an amendment, I would instead ask unanimous consent that a letter from Mr. Henry E. Schleicher to me be printed in the RECORD, because it summarizes the activities of the Retired Senior Volunteer Program of Montgomery County.

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

MINUTES

51782-1831

PHILADELPHIA, PA.
January 26, 1990.

HON. ARLEN SPECTER.

DEAR ARLEN: With the current emphasis on recognizing the value of civic volunteerism as an effective means of compensating for a declining ability to provide tax dollars, you may be interested in the work of the Retired Senior Volunteer Program of Montgomery County.

DIMENSIONS

In 1989, this RSVP's more than 1300 volunteers provided nearly 160,000 hours of service to hospitals, nursing homes, shelters, libraries, schools, rehabilitation centers and museums. At the minimum wage, this represents nearly \$700,000 that the federal government and the administrators of these agencies didn't have to spend.

Of RSVP's annual budget, only 26 percent comes from the federal government through ACTION. Montgomery County provides another 25 percent, and the rest—more than \$127,000—is raised through vigorous action by RSVP members and staff.

ACCOMPLISHMENTS

In 1989, RSVP Montco volunteers served 230 community agencies.

Beyond the regular volunteerism, RSVP Montco has innovated a number of programs which exemplify the programs of national significance being encouraged by the White House Office of National Service:

Talk to Me program provides telephone reassurance for latchkey children. Every afternoon, older adults, many of whom are homebound, talk by phone with a child who comes home from school to an empty house. Innovated by RSVP in 1988, the program has expanded to 12 school districts, with 78 children and 71 volunteers.

Cassette Pal was created by this RSVP to enable homebound and nursing home residents and classes of elementary and middle school children to engage in an ongoing dialog by exchanging audio cassette tapes. Both groups develop an appreciation of each other, discovering mutual interests and dispelling age-related stereotypes. By the end of 1989, 9 nursing homes and 7 schools, including classes of retarded students, were participating.

Senior Adults Generating Enrichment (SAGE) is the newest innovation of the Montgomery County RSVP. Just now getting started, SAGE will enable school teachers in grades K to 12 to arrange for speakers, mentors and field trips with RSVP volunteers. Speakers would draw on their own training and life experience to talk about geography, history, economics, government, law, technology, arts and crafts, and to help with skills development. Mentors will be provided to work with individual students including those with special needs.

RSVP's special programs target community needs:

Volunteer Executive Consultants mobilizes retired managers and professionals to volunteer their expertise to charitable organizations and community service agencies. VEC also holds a number of workshops each year to help people prepare for retirement, to counsel the aging, and to help community agency staffs build skills.

Adult Literacy puts together RSVP tutors with hospital patients, prison inmates, the foreign born, and children who will then read to the blind and frail elderly.

Homefriends provides volunteers who spend a few hours each week with a special needs child—reading, doing crafts, sharing skills, being a friend.

Volunteers Serving the Homebound Elderly is RSVP's support service for homebound and institutionalized older adults. More than 300 volunteers provide companionship,

transportation, do shopping, deliver meals and assist with basic household tasks.

RSVP'S COMMITMENTS FOR 1990

To expand the volunteer rolls, especially with the harder to recruit groups of males and members of minority groups.

To create additional meaningful volunteer opportunities for the homebound, institutionalized, and the disabled.

To promote the creative use of volunteer by community agencies.

To service as an advocate for older adult volunteers on issues that concern them.

There are more than 400,000 older Americans volunteering through the 750-plus RSVPs across the country; there are 30 RSVPs in Pennsylvania alone. Their work needs both financial support and encouragement. One important step in the right direction is the effort of the White House Office of Volunteer Services to ensure that all Americans recognize the value being created by volunteers.

If you would like more information about the RSVP of Montgomery County, I'd be happy to provide it. I am an active participant on its board. Also, if you have the opportunity to nominate people to be nationally recognized for their work, I can assure you that our RSVP has a number of individuals who make outstanding contributions. Many of them overcome their own handicaps to be of service to others.

Your interest and support would be greatly appreciated.

Cordially,

HENRY SCHLEICHER.

Mr. SPECTER. As I say, Mr. President, the activities of Mr. Schleicher were truly outstanding, as are the activities of this volunteer civic group.

One of the important aspects of the legislation which is pending is a program to give recognition to individuals who have made outstanding voluntary contributions. Last week, I had occasion to meet with Mr. Robert Field and Mr. Mel Allen of Lancaster to hear about a program which they are undertaking in the city of Lancaster on a voluntary basis to aid underprivileged youngsters. These comments could be extended very materially, but I mention these programs to give some recognition of the very valuable contributions community service organizations can make. As these few instances illustrate, the contributions of volunteers in this country are worthy of recognition and support. I believe that this legislation will be a significant advance of this very important kind of community activity.

I thank the Chair, I thank my colleague from Kentucky, and I yield the floor.

EXHIBIT 1

[From the Philadelphia Inquirer, Dec. 16, 1989]

MENTORING: THE NEXT GENERATION OF PHILADELPHIANS NEEDS HELP—MAYBE FROM YOU

Nick Wahl threw more gutterballs than strikes a few days ago at Boulevard Lanes, as his Big Brother—Lee Fisher—offered tips, such as how to stride less like a gazelle. But the low score didn't matter because their get-togethers aren't about scoring points. The idea is for Nicholas, 10, an only child who lives with his mother, to know an older guy he likes, trusts and looks up to. For more than a year now, Lee Fisher, 43,

has filled the bill. At least once a week, they get together, often just hanging around the Fisher house.

These fellows are the picture of steadiness, not trendiness. After all, Lee Fisher has been a Big Brother since 1971, helping five boys. And the Big Brother/Big Sister Association of Philadelphia celebrates its 75th anniversary next year.

Yet these one-on-one relationships—also called "mentoring"—are becoming downright trendy. President Bush touts them. A new nonprofit group called Philadelphia Futures is creatively expanding their numbers. Another sign that mentoring is hot and that 1980s-style greed is not: Some of the stars of thirtysomething are doing a public-service spot that will urge local viewers to help Philadelphia Futures.

Thus as the Helmsley-Boesky era ends, the fresh interest in serving youth is a reason for hope. Although there's no magic cure to the multiple problems of young people, especially in inner-city ghettos, one-on-one relationships can help kids in terms of maturity, academics and other challenges of adolescence. For example, one of Lee Fisher's Little Brothers—a teenager who had seemed unaffected by their relationship—stunned him one day by saying Lee probably was the difference between going to jail and going to college.

The big question is this: Can the number of these mentoring relationships be dramatically increased without trivializing the concept? Basically, Philadelphia Futures is trying to show that it can be done. So far, this new kid on the block is succeeding in terms of numbers, but it's too soon to judge the impact on the kids.

Let's look at the numbers. There are two organizations in Philadelphia that are affiliated with the national Big Brothers/Big Sisters. Altogether, they created about 200 one-on-one relationships in the last year (while overseeing hundreds of matches started earlier). Since January, Philadelphia Futures created more than 150 mentoring relationships. That's an impressive start.

One way Philadelphia Futures has pulled in new volunteers is by sheer pushiness. Its founder, Merciene S. Mattleman, employs a range of roles, from a fence-painting Tom Sawyer to a press-agent-from-hell. And instead of waiting for volunteers to trickle in one by one, she succeeded at involving whole organizations, such as CMS Financial Services and the Pennsylvania Institute of Certified Public Accountants. Her program also has a lure for volunteers who might not feel up to the challenges of a one-on-one relationship: They can interact with kids in a group setting in school, which need not lead to a one-on-one relationship but often does.

One of the basic distinctions of Philadelphia Futures is that it's aimed at adults who feel they don't have enough time to meet with a kid once a week. The minimum commitment of a mentor in this program is to meet with the young person at least once a month, make contacts such as phone calls in between, and stick with it for at least a year. Some participants go way beyond that, of course, but many do not.

Research and common sense make the same point about these relationships: The more frequent the get-togethers, and the longer the tie lasts, the more likely the young person will benefit. But the countervailing reality is that there aren't nearly enough volunteer mentors to meet the need. In the Big Brother/Big Sister programs in Philadelphia and its suburbs, for every three kids being helped, one boy or girl is on a waiting list. The need for more volun-

teers—which is especially acute for black and Hispanic adults—shows why it's important to test the impact of relationships less intense than weekly get-togethers.

This is shaping up as a time of creative competition for mentoring efforts in Philadelphia (home of the national headquarters of Big Brother/Big Sister of America). One hope is that Philadelphia Futures' excellent performance at recruitment will prod the established organizations to do better on that front. The big unknown is whether it's less time-consuming mentoring—a key to luring volunteers among thirtysomething workaholics—will do much good.

Ideally, all of the organizations that do mentoring—and there are many—will benefit from a new degree of competition, innovation and cooperation. If that happens, the real winners will be thousands of kids who need help now.

AMENDMENT NO. 1269

(Purpose: To provide certain protections from civil liability to volunteers and nonprofit corporations under section 501(c) of the Internal Revenue Code of 1986)

Mr. McCONNELL. Mr. President, shortly I will be sending to the desk an amendment on behalf of myself, and Senators ARMSTRONG, BOSCHWITZ, COATS, GORTON, GRAMM, HATCH, LOTT, MACK, MCCAIN, NICKLES, SYMMS, and KASTEN.

This amendment, Mr. President, in addition to being supported by the Senators I just listed, is also supported by the following nonprofit volunteer organizations in America: the umbrella group, the National Coalition for Volunteer Protection, and within that group, Little League Baseball, the Air Force Association, the Boy Scouts of America, B'nai B'rith, the American Horse Council, Second Harvest, National Ski Patrol, American Society of Association Executives, General Federation of Women's Clubs, Academy of Model Aeronautics, National Society of Professional Engineers, Big Brothers/Big Sisters of America, National Employee Services and Recreation Association, Credit Union National Association, American College of Cardiologists, International Legal Fraternity of Phi Delta Phi, National Junior College Athletic Association, American Motorcycle Association, International Executive Service Corporations, American Association of Blood Banks, American Association of Museums, Christian World Relief Commission, American Institute of Architects, National Multiple Sclerosis Society, American Association of Marriage and Family Therapy, American Dental Hygienists Association, Railway Progress Institute, Hale Foundation, Human Ecology Action League, Far West Ski Association, Electronics Industries Association, Water Pollution Control Federation.

These organizations, Mr. President, among other things, represent millions of volunteers.

I want to talk just for a moment, Mr. President, about a measure that I am not offering today, one that I introduced last summer. Then I will get back to the one that I will be proposing today.

Last June, I introduced the Lawsuit Reform Act, to reform the "sue-for-a-million" mentality that has gripped our civil justice system.

That bill is not designed to help just manufacturers or doctors—it is designed to help everybody. As a result, it has the broadest base of support of any legislation ever introduced on this subject. Nearly 40 major organizations have announced their support of the Lawsuit Reform Act.

Among the organizations represented in this coalition are volunteer organizations like the Boy Scouts, the Little League, and the American Red Cross; local government groups like the National League of Cities and the National Association of Counties; health care providers like the American Hospital Association and the American College of Nurse-Midwives; professional associations like the American Association of Engineering Societies and the American Institute of CPAs; education groups like the American Council on Education and National High School Athletic Coaches Association; Law Enforcement Association like the National Institute of Municipal Law Officers and the National Law Enforcement Council; and business organizations like The National Federation of Independent Business and the U.S. Chamber of Commerce.

All of these organizations, with their thousands of members and literally millions of people that they represent, are saying "enough!" of the lawsuit craze—it is time for a solution. And whether the rest of America knows it or not, everyone pays for the lawsuit lottery in our court system. The cost of lawsuits and lawyers is a part of everything we buy and use in society. I refer to this cost factor as the "lawyer's tax."

The lawyer's tax accounts for 95 percent of the cost of child vaccines—at a time when our infant mortality rate is becoming one of the worst among industrialized nations. The lawyer's tax accounts for a third of the cost of a step-ladder. And it adds a surcharge of \$300 on the bill that parents pay to have their baby delivered—if they can find a doctor willing to take the liability risk. The lawsuit craze also is one of the principal reasons behind the lack of business-sponsored on-site child care facilities.

It also is the reason why many high schools are getting rid of their chemistry labs—at a time when the need for America to stay competitive in the sciences is critical. In football—that uniquely American sport—the players' helmets are made in Korea. This is not because America can't make a better football helmet, but because no one can afford the risk of being sued.

Mr. President, the lawsuit crisis affects every one of us, cradle to grave at every stage of life. Just recently, a young lady could not go to the prom because her date had broken his ankle 5 days beforehand. So she did what

any other red-blooded American would do in those circumstances: she sued her date for damages. To her credit, she at least did not ask for compensation for pain and suffering. This case is symbolic of a national trend—to hire a lawyer and to go to court whenever anything goes wrong.

Fortunately, we can do something about the lawsuit craze without limiting the right of injured people to receive fair compensation for their losses and suffering. My bill, the Lawsuit Reform Act, strikes a fair balance between the victims of wrongful injuries and the victims of wrongful lawsuits.

Again, I am referring to a bill I introduced last year which I will not be offering as an amendment this morning.

First, this bill would say that no one can be held liable for the wrongdoing of others. If a person is only marginally responsible for causing an injury, then their share of the damages ought to be proportional with their share of the responsibility for causing the injury.

Under today's law, a person who is only marginally at fault for causing an injury can end up paying all of the damages, under the doctrine of joint and several liability. My bill would abolish the joint and several liability doctrine once and for all.

Second, my bill provides that if you sue someone else and you lose, you have to pay the other side's attorneys' fees and court costs. The same rule applies if you are sued and you lose—you have to pay the plaintiff's costs and fees. This is the English rule. Although my bill is slightly different, it protects the right of truly indigent persons to bring suit, by exempting them from this provision altogether. It also limits the amount of the other side's expenses you have to pay to what you are paying for your own attorney and other costs.

With these changes, my loser pays provision will lessen the number of frivolous lawsuits and encourage people to settle out of court—without depriving anyone of full access to the courtroom.

The last critical area my bill addresses is alternative dispute resolution. With our court system becoming more clogged by the minute, we should be encouraging litigants to use alternative means of dispute resolution. My bill would require the lawyers on both sides of any lawsuit to inform their clients of these alternative methods of solving legal problems.

I would stipulate that, if the parties voluntarily agreed to through ADR [alternative dispute resolution] instead of the courts, the decision of the alternative forum would be binding. They could not go back into the court system to get the ADR's decision reversed.

The main reason today why most people do not opt for ADR, is because the decision is not binding. Either side

can appeal to the courts if they do not like the result.

This legislation would make the result final if both sides voluntarily agreed to submit to ADR.

Mr. President, another issue my bill addresses is the problem of illegal drugs and alcohol which causes many serious accidents every year. My bill provides if a person was under the influence of illegal drugs or alcohol and this condition was at least 50 percent responsible for any injury suffered by that person, the person shall not be allowed to get money from anyone else for their injury.

The Lawsuit Reform Act also alleviates the liability burden on local governments by reducing their exposure to statutory lawsuits, under title 42 of the United States Code. Although local governments would be subject to the same rules as everyone else in conventional tort suits, they would no longer be such sitting ducks for lawsuits brought under this Federal statute. At a time when the Federal Government looks to the States and counties to provide basic services, we should not be trying to tie a noose of liability around their necks.

Mr. President, I have outlined what was in the bill that I introduced last summer.

Also significant is what is not in that bill; I repeat: What is not in that bill. There are no caps on damages for pain and suffering. There are no caps on attorney contingency fees. There are no restrictions on punitive damages, while we await the Supreme Court's decision on this issue. Finally, in a major departure from past legislative efforts on my part, there is no fault requirement; no fault requirement in the Lawsuit Reform Act.

I had several reasons for this omission. First of all, fault or negligence already is required in nearly all tort actions except product liability. Second, fault-based standards tend to be controversial and I wanted to craft a reasonable bill, capable of getting bipartisan support. And finally, fault-based standards are being addressed in a separate product liability bill that has been kicking around the Senate for some time.

Mr. President, all of the bill that I just described is, in fact, not what I am offering today. What I am offering today is only a portion of that proposal.

Mr. President, the amendment I am offering today has to do with the real crisis in the nonprofit sector in this country. Exactly at a time when the President of the United States is calling for more participation by volunteers through his thousand points of light initiative, organizations, and volunteers providing charitable services are finding a hard time surviving. Liability premiums and attracting unpaid workers and board members. My amendment addresses this problem in a comprehensive fashion.

First, it would abolish the joint and several liability doctrine. This amendment says that no nonprofit organization can be held liable for the wrongdoing of others. If a person is only marginally responsible for causing an injury, then his share of the damages ought to be proportional to his share of the responsibility for causing the injury.

Under today's law, a person who is only marginally at fault for causing an injury can end up paying all of the damages under the doctrine of joint and several liability. My amendment will abolish the joint and several liability doctrine for nonprofit corporations except from tax under 501(c) of the Federal Code. I might say, there are certain 501(c)'s we specify. Others are not included, and I will go over that at the end of my statement.

Alternative dispute resolution: Second, my amendment provides a mechanism for nonprofit organizations to look at alternatives to full-scale litigation of a dispute involving a civil liability action. With our court system becoming more clogged by the minute, we should be encouraging litigants to use alternative means of dispute resolution.

My amendment requires the lawyers on both sides of a lawsuit, where a nonprofit corporation is a party, to inform their clients of alternative methods of solving legal problems, and it would stipulate that if the parties voluntarily agree to use an alternative means, ADR, to resolve their dispute instead of the courts, the decision of the alternative forum would be binding. They could not go back to the courts to get an ADR decision reversed.

The main reason today why most people do not opt for ADR is because the decision is not binding; either side can appeal to the courts if they do not like the results. This provision would make the results final if both sides decide to submit to ADR at the beginning of the action.

The third provision in my amendment provides limited immunity for an unpaid volunteer as an individual from liability exposure. To qualify for this limited insulation from liability, the volunteer would have to be, first, acting in good faith; second, be acting within the scope of his or her volunteer function; and third, not be engaging in wanton, willful, or reckless activity.

This provision would shield volunteers from liability except in the most extreme of circumstances. And although I can see that the tort laws have traditionally been considered matters of State law, my amendment proposes a uniform Federal standard which would partly, and only partly, preempt State tort law.

Why have I chosen a Federal approach? Quite simply, every single charity and nonprofit organization looks not to State law to establish and organize itself, but to the Federal Tax

Code. Section 501(c) of the Tax Code, to be specific.

Provisions in 501(c) determine what a nonprofit association's articles of incorporation and bylaws will look like if almost every activity that organization engages in follows the guidelines set out in the Tax Code and accompanying regulations. These organizations are like nationally chartered banks in that they look to the federal system for their organization's structure and authority and not, I repeat not, the State law. I believe this represents a compelling argument for a Federal response to the problem.

Mr. President, my amendment would allow volunteers to come forward to offer their services without the fear of putting their home or their assets at risk for volunteer activity which is benefiting society.

Mr. President, people in America are not coming forward to offer their services because of the fear of being sued. Yet, no other country on Earth depends more on volunteer efforts of so many throughout their society.

Let me provide several facts to illustrate my claim. In 1985, a Gallup study showed that 85 million Americans volunteered, giving 16.5 billion man-hours of service valued at about \$110 billion. One year later, Mr. President, in 1986, the American Association of Association Executives surveyed their membership of 8,000 associations and found that 60 percent—yes, 60 percent—had a problem recruiting volunteers.

In 1987, Peat Marwick surveyed CEO's six nonprofit associations and found that 26 percent of those surveyed believed that there was a crisis in getting volunteers to come forward. Later that year, in November, the Gallup Organization conducted a survey of CEO's of nonprofit associations and found 20 percent of the CEO's stating that they are losing volunteer participation because of libel fear.

Mr. President, is that fear a reasonable one? One in five of these nonprofit associations has had to face a suit on the issue of officer and director liability during the last 5 to 7 years. Mind you that many of these associations are very small outfits which can hardly afford to pay the utility bill, let alone the fees of expensive litigation.

This crisis in our nonprofit sector has prompted these associations to form a coalition to help them solve this problem. More than 800 organizations have come together under the National Coalition for Volunteer Protection to begin to seek a solution to this problem.

My distinguished colleague from Arizona [Mr. DeConcini] has introduced a bill, S. 520, which provides a limited immunity for volunteers.

The third provision of my amendment is almost identical to the language used in S. 520, and my amendment is supported by the National Co-

alition for Volunteer Protection and the individual nonprofit associations to which I referred at the beginning of my remarks.

The conceptual framework for this legislation was the subject of a hearing before the Senate Judiciary Subcommittee on Courts and Administrative Practice on May 30, 1983.

I might say parenthetically, I chaired that subcommittee back in 1986 when our party was in power in the Senate. I will be happy to furnish a copy of the hearing record for any of our colleagues who want to learn about the crisis in the nonprofit sector of our country.

Mr. President, you would not believe some of the horror stories which this hearing nonprofit brought to the Senate's attention. In my home State of Kentucky, there was a flood in 1978 and the Phelps Community Hospital in Phelps in eastern Kentucky lost all of its communications and closed down. A team of amateur operators was flown in by helicopter. They supplied communications support, and the hospital was reopened.

One of the first messages passed by the ham operators was a 2-page request for drug supplies. The drugs were flown in and all was well. But suppose, Mr. President, the amateur operator, who was a volunteer, stumbled over one of the medical names and the wrong medicine was flown in? This good samaritan would share liability for whatever happened.

In New Jersey, a little league coach, who was an unpaid volunteer, reassigned a 10-year-old shortstop to a position in the outfield. In playing the outfield, a flyball to him was misjudged, striking the player in the eye, and he was injured. His parents sued the coach for failing to recognize that the 10-year-old was a born infielder. The National Little League was overwhelmed with calls by coaches from across the country who were worried they would be sued if they moved a player from one position to another.

One of my favorite anecdotes involves a mountain rescue unit in Riverside, CA. In the fall of 1983, this volunteer rescue unit was called to save an individual who had been drinking alcohol and had fallen off a cliff. The person was severely injured. He had no feeling in his legs, some feeling in his hands, and had a piece of wood lodged in his left leg where ants were crawling in and out of his open wound.

The rescue team had no alternative but to use a helicopter to airlift this individual out. Even though it was approaching midnight, the volunteers provided emergency aid, immobilized the injured person, and arranged for an evacuation. The helicopter flew over the top of the injury site, the litter was attached, and the subject was raised to the top of the mountain and then placed in the helicopter and sent to the nearest trauma center.

One year later, Mr. President, this individual sued and won an \$11 million

judgment against the volunteers who saved his life.

That anecdote, Mr. President, sums up our current priorities in this area. We are much more concerned about individual rights and litigation to the exclusion of other societal interests.

I think this situation needs to be corrected. We cannot continue to abuse these people and organizations which care enough to give of themselves to benefit their community. These are young people and needy citizens who are benefitting from these volunteer hours.

Escalating litigation and skyrocketing verdicts are threatening to extinguish the American system of voluntarism. Voluntarism is one of our most venerated traditions, and this is an activity which, ironically, President Bush wants to encourage, not discourage, through his thousand-points-of-light initiative. The fear of litigation and the cost of insurance are driving many fine people away from community service at a time when the need for volunteer participation is at its greatest. Volunteers and nonprofit organizations are a natural resource deserving of some measure of protection from the lawsuit liability crisis.

My amendment addresses this issue in a balanced and comprehensive fashion. Mr. President, I have made some changes to the amendment that I am about to send to the desk for consideration. To respond to some of the concerns expressed about this amendment, I have authorized three changes in the original draft that I filed, and they will be reflected in the amendment that I will shortly send to the table.

First, I have limited the scope of coverage to only certain organizations under 501(c) of the Tax Code. There are over 20 different types of 501(c) organizations, and I have only included the most deserving for this type of treatment. There are seven. The amendment will apply to 501(c)(1), congressionally chartered organizations, such as Boy Scouts, Red Cross, and the Little League. It will apply to 501(c)(3), which is charitable, religious, educational, and scientific organizations. The amendment will apply to 501(c)(4), social welfare organizations. The amendment will apply to 501(c)(6), business leagues and trade associations, such as the Chamber of Commerce and the American Chemical Society. The amendment will apply to 501(c)(7), social and recreational clubs, which would include the General Federation of Women's Clubs, junior leagues, that type of organization. The amendment would apply to 501(c)(14), which includes credit unions, which rely a lot on volunteers in rural areas. And, finally, the amendment would apply to 501(c)(19), veterans organizations.

Mr. President, the amendment would apply only to those kinds of 501(c) groups.

Second, I have added the term "reckless" to the standards which are not exempt from liability protection. Reckless conduct or misconduct includes activity which may not be intentional but clearly should not be shielded from liability. So voluntarily engaging in reckless conduct, Mr. President, would not be included in this amendment.

Third, I have added an exception for volunteer activity which is subject to Federal or State professional licensing or certification procedures. Certain professionals, such as doctors and lawyers, should not be completely shielded from liability to the extent that there are existing standards of care already established for these licensed professionals.

Mr. President, that basically covers my opening statement on the amendment.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. McCONNELL), for himself, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. COATS, Mr. GORTON, Mr. GRAMM, Mr. HATCH, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. NICKLES, Mr. SYMMS, and Mr. KASTEN, proposes an amendment numbered 1269.

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

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

The amendment is as follows:

At the end of the bill add the following new title:

TITLE IV—VOLUNTEER LIABILITY PROTECTION

SEC. 401. JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), joint and several liability may not be applied to any civil liability action if one party is a tax-exempt organization described in sections 501(c) (1), (3), (4), (6), (7), (14) and (19) of the Internal Revenue Code of 1986. A person found liable for damages in any such action may be found liable, if at all, only for those damages directly attributable to the person's pro rata share of fault or responsibility for the injury, and may not be found liable for damages attributable to the pro rata share of fault or responsibility of any other person (without regard to whether that person is a party to the action) for the injury, including any person bringing the action.

(b) EXCEPTION.—This section shall not apply as between persons acting in concert if the concerted action proximately caused the injury for which one or more persons are found liable for damages.

(c) DEFINITION.—As used in this section, the term "concerted action" or "acting in concert" means the participation in joint conduct by two or more persons who agreed to jointly participate in such conduct with actual knowledge of the wrongfulness of the conduct.

SEC. 402. ALTERNATIVE DISPUTE RESOLUTION.

(a) POLICY.—Because the traditional litigation process is not always suited to the timely, efficient, and inexpensive resolution

of civil actions, it is the policy of the United States to encourage the creation and use of alternative dispute resolution techniques, and to promote the expeditious resolution of such actions.

(b) **ALTERNATIVE DISPUTE RESOLUTION OPTIONS.**—In any action in which one party is a tax-exempt organization described in sections 501(c)(1), (3), (4), (6), (7), (14) and (19) of the Internal Revenue Code of 1986, each attorney who has made an appearance in the case and who represents one or more of the parties to the action shall, with respect to each party separately represented, advise the party of the existence and availability of alternative dispute resolution options, including extrajudicial proceedings such as mini-trials, third-party mediation, court supervised arbitration, and summary jury trial proceedings.

(c) **ADVISING CLIENTS OF OPTIONS.**—Each attorney described in subsection (b) shall, simultaneous with the filing of a complaint or a responsive pleading, file notice with the court certifying that the attorney has so advised his client or clients, and indicating whether such client will agree to one or more of the alternative dispute resolution techniques.

(d) **AGREEMENT TO ALTERNATIVE DISPUTE RESOLUTION.**—If all parties to an action described in subsection (a) agree to proceed with one or more alternative dispute resolution proceedings, the court shall issue an appropriate order governing the conduct of such proceedings. The issuance of an order governing such further proceedings shall constitute a waiver, by each party subject to the order, of the right to proceed further in court.

SEC. 431. NATIONAL GOOD SAMARITAN RULE.

(a) **EXEMPTION FROM LIABILITY.**—Except as provided in subsections (b) and (d), any volunteer of a tax-exempt organization described in section 501(c)(1), (3), (4), (6), (7), (14) and (19) of the Internal Revenue Code of 1986 shall not be subject to liability for any tort claim alleging damage or injury from any act or omission of the volunteer on behalf of the organization if—

(1) such individual was acting in good faith and within the scope of such individual's volunteer functions and activities with the organization; and

(2) such damage or injury was not caused by willful, wanton or reckless misconduct by such individual.

(b) **ACTIONS AGAINST VOLUNTEERS.**—Nothing in this section shall be construed to affect any civil action brought by any such tax-exempt organization against any volunteer of such organization.

(c) **INJURY TO A PERSON.**—Nothing in this section shall be construed to affect the liability of any such tax-exempt organization with respect to injury caused to any person.

(d) **EXCEPTION.**—The protection from liability required by subsection (a) does not (1) apply if the volunteer was operating a motor vehicle or was operating a vessel, aircraft, or other vehicle for which a pilot's or other form of operator's license is required; or (2) the volunteer was performing an activity which is subject to Federal or State professional license or certification.

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

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

Mr. KENNEDY. Mr. President, there are a number of features included in the McConnell amendment for which I think anyone who is committed to voluntarism and understands the burden that exists for voluntary

foundations and organizations has to have some empathy and some sympathy. But the way this particular amendment is drafted, it would go far beyond anything that was ever thought to be included in this particular legislation. I think the membership ought to understand the strongly held views and positions of the Senator from Kentucky with regard to product liability. That is not what this bill is about.

As I understand the amendment, there are literally thousands of organizations that would be covered by the sweep of this particular amendment. Every week there are 20 or 30 organizations that are put on the list and taken off the list of tax-exempt organizations. I know that only a handful of our colleagues are on the floor at the moment, but these 2 700-page books give you some idea of the sweep of this particular legislation. Effectively, this amendment would preempt all of the State laws that have been developed across the country. You would be establishing criteria on the floor of the Senate virtually without any hearings other than what has been held in the Judiciary Committee on a related matter of the Senator from Arizona [Mr. DeCONCINI] who has devoted a good deal of time on the issue.

I am not familiar with the kinds of egregious situations that have been suggested by the Senator from Kentucky. Yet, we have not had submitted to our committee, in the course of our hearings, how there were additional kinds of burdens being placed on the various foundations, the various charitable organizations. So we do not have any of that information.

It does seem to me, Mr. President, we ought to review this legislation in the committee, and review it carefully. If the Senator wants some hearings on this measure, I am sure that the chairman of the Judiciary Committee, where this particular amendment, if it had been introduced as legislation would be sent—not the the Human Resources Committee but to the Judiciary Committee—would be willing to give it consideration. I want to give assurance to the membership that virtually every consumer group is strongly opposed to this particular measure. I know that our colleague, Senator HEFLIN, on the Judiciary Committee, and also the Senator from Arizona [Mr. DeCONCINI], who has spent a good deal of time on related matters, wish to address the substance of the amendment.

But I point out that this is of great concern to the chairman of the Judiciary Committee, Senator BIDEN, and other members of the committee, who feel that this matter ought to be addressed by the Judiciary Committee. I must say that in the course of our hearings on this legislation we did not have the indication, based on quantifiable data, from any of the foundations, the voluntary organizations, that this is a particular problem. Ef-

fectively, if we accept the McConnell amendment, we are saying that the laws of every State in the country that has reviewed this particular issue about what the liability will be for charitable organizations will be virtually off the books. It seems to me to be inappropriate to take that sweeping step at this particular time.

Mr. President, I know my colleagues want to speak to the substance of this amendment. We welcome their comments.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DeCONCINI. Mr. President, I thank the Chair. I thank the Senator from Massachusetts.

I thank the Senator from Kentucky [Mr. McCONNELL]. He has, indeed, put in a lot of time on this. I happened to be listening to his statement in another office this morning about the crisis and the severity of the problem, and I compliment him for laying it out.

The crisis today is partly the litigation, but also many other things involved in our society. But certainly he laid out a problem that I do not think anybody will dispute. I do not dispute that the problem exists; it is real. There are a lot of ways of going after it. Really, the difference I have with the distinguished Senator from Kentucky is his particular mode. I do not claim to have the best answer or the only answer or maybe not even a better answer. But I am compelled to oppose the amendment offered by the Senator from Kentucky to the National and Community Service Act. The amendment represents both bad public policy, in my judgment, and bad Senate procedures.

While I agree with Senator McCONNELL's goals of encouraging volunteers to offer their services to society, I disagree with the method he has proposed in his amendment. I disagree very strongly, and I would like to touch on it a little bit.

I believe that there is a much less intrusive way to implement a system that will protect volunteers from civil liability which I support. I have introduced legislation, S. 520, the Volunteer Protection Act, which I believe is a more appropriate way to encourage voluntarism. My bill encourages States to protect citizens who volunteer their services to their communities by providing incentives to the States to enact State voluntary protection laws.

I do not want the Federal Government to start regulating this part of the volunteer community. S. 520 is pending in the Judiciary Committee, and in the subcommittee of the Committee on Courts and Administrative Policy.

The chairman of that, the distinguished Senator from Alabama [Mr. HEFLIN], has assured me that the subcommittee will have hearings on this legislation in the very near future. My experience with the Senator is that

when he says he is going to have hearings he has done it—for this Senator and I know for other Senators. At that time I am sure the members of the Judiciary Committee and any other members, including the distinguished Senator from Kentucky, who served on the Judiciary Committee with great distinction and chaired some hearings in 1986, I believe, or 1985, will be available and can have a complete hearing to approach not only this legislation of mine, but any other legislation that is pending on the subject matter.

The amendment before us is an inappropriate intrusion by the Federal Government into the affairs of the States. It is but a small skirmish in the long-running battle between those who believe that the Federal Government has all the answers and therefore should impose Federal solutions on the States, and those who believe that the more decisions that can be made at the State level closer to the people the better off we all are.

I happen to fall in that latter category, not that I do not on occasion support Federal solutions. Sometimes there is no alternative in a situation. To me there is here.

In the past, Congress has attempted to persuade the States of the correctness of certain policies by penalizing them for not implementing certain specific State laws that would comply with the direction of a Federal policy.

An example of this procedure that immediately comes to mind relates to speed limits. In many areas of the country, including my own, the measure was bitterly opposed. In that situation, the Government attempted to impose its will on the States. The legislation that I have introduced does not attempt to impose certain policy decisions on the States. They do not have to do what we might pass here, but there is an incentive.

Instead, it offers financial incentives for those States who agree that citizen volunteers need certain protection under State laws. I am aware that all States may not follow the suggestions that Congress and the Federal Government make in specific policy decisions, I think rightfully so. Those are legislative choices made by the individual States by their legislatures, by their Governors and hopefully by their people.

I am hopeful that, if S. 520 were to pass, all the States would decide that the policies suggested therein are correct and should be implemented because I believe they are very reasonable. But I do not think that these decisions should be imposed mandatorily by the Federal Government on the States.

Senator McCONNELL's bill contains three sections. If I were a State legislator presented with these amendments to the State laws I could support all of them. The three provisions are an elimination of joint and several liability, promotion of alternative dispute

resolution, and a national Good Samaritan rule.

My State of Arizona has already abolished the principle of joint and several liability. I believe that this was a good change, but I also believe that it was appropriately made at the State level, not a dictate from the Federal Government.

The second provision is related to alternative dispute resolutions, known as the ADR. I have supported efforts to promote ADR in the Federal courts to resolve Federal disputes. I would support my State legislators if they chose to promote and pass such procedures in the State of Arizona. But I would oppose an effort in Congress to impose an ADR on the States from the Federal level.

The third and most important provision of Senator McCONNELL's amendment enacts a national Good Samaritan rule. The provision is very similar to one contained in my Voluntary Protection Act. There is, however, one important difference. The amendment proposed today unilaterally imposes such a provision on all the States as I read that amendment. As I have said, and hopefully made it clear, I believe that such an imposition is clearly inappropriate and something that I cannot support.

I look forward to working with Senator HEFLIN, with Senator McCONNELL, with Senator KENNEDY, not only to proceeding with S. 520, but maybe there are better ways to approach this problem.

In my view to mandate something from the Federal level is not the answer. The States need to work this problem through themselves, and we should give them an incentive or at least a direction that we think is a policy or a proper way to go.

I am working with Senator McCONNELL to ensure that S. 520 or his legislation is approved by the Senate as modified, if it is not a mandatory dictate from the Federal Government. But I urge my colleagues to not approve this amendment today. And if a motion to table this amendment is made, I will vote for it.

I thank the Chair.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I want to express my support for the amendment offered by the distinguished Senator from Kentucky and commend him, as has the Senator from Arizona, for his long and thoughtful work on a very difficult and complex subject.

As most of the Members of this body know, the Senator from Kentucky has introduced on more than one occasion a much broader bill on tort liability in response to what is a clear challenge and a clear problem both to justice and to American productivity.

He has drafted this amendment in a much more narrow fashion to apply specifically to the subject matter of this debate. On voluntarism, the Sena-

tor from Arizona points out with great candor and honesty, that he supports as a matter of general policy each of the three elements of this proposal, but simply feels that it is inappropriate to establish them as Federal policy.

That is a forceful argument. It is an argument well worth making. It is however an argument which is rather considerably weakened when the amendment is attached to a Federal attempt to encourage and to a certain extent to regulate the field of voluntarism itself.

I doubt seriously that the distinguished Senator from Kentucky would have proposed this specific amendment on an entirely different subject matter. This is proposed because the Congress of the United States and this body now sees fit to interject itself into the field of voluntarism.

There are Members I suspect on both sides of the aisle here who are troubled by the concept that we should be dealing with a subject like voluntarism in general as against the military at all. I suspect however that a vast majority of the Members of this body, nonetheless, will weigh that consideration in favor of a bill which encourages and supports voluntarism.

But as it is doing so, it seems to me anomalous, Mr. President, to say that while we are getting into a new field, the field of voluntarism, we will not do something which may impinge upon a traditional State effort to limit the liability of both those volunteers and of the organizations of which they are a part.

My memory does not go far enough to know whether or not the Presiding Officer is one of the sponsors on both sides of the aisle of a much more sweeping bill which will preempt State liability laws with respect to product liability. This Senator must announce that he is one of the sponsors of just such a bill. That proposal, that philosophy, has been debated in the Commerce Committee of the U.S. Senate now for more than a decade. As recently as 1986, a significant majority of the members of the Commerce Committee, representing members of both parties, voted to report to the floor a much more sweeping bill, preempting State laws with respect to product liability.

In passing, this Senator voted against that bill in 1986, but voted against it for reasons which are not relevant to the debate here today. This Senator strongly supported the preemption of joint and several liability rulings on the part of the States in that bill and does this year with respect to the product liability legislation, which is before the Commerce Committee and which I am willing to predict will get a substantial majority vote on the Commerce Committee as and when there is a markup session on the bill itself.

So I believe, in summary, that the objection that we should not deal with what the Senator from Arizona regards as highly valued social priorities, simply because this has traditionally been a matter left to the States, falls, while we are debating a bill which I suspect he supports, which puts the Federal Government into a field in which it has not traditionally been involved. That leads us, of course, to a debate over the policy merits of the three proposals which have been made by the distinguished Senator from Kentucky, in connection with this amendment. And there, I gather, at least if the Senator from Arizona speaks for a substantial number of Members of this body, there is probably a majority position here in the U.S. Senate in favor.

The first of these proposals deals with that interesting concept of joint and several liability, which simply translated into the language of the street means that if there are two or more parties, both of whom contributed by their negligence or by some other mark of liability to an injury, any one of them can be held responsible for the entire damages awarded by a jury or by a court. Even in the extreme set of circumstances in which one of those parties was 90 percent responsible, and the other 10 percent responsible. Obviously, the goal is to see to it that the injured party is fully compensated, even though one of the defendants is judgment proof or otherwise cannot respond to that judgment.

That question is a troubling one, in any event, for any company, even for a large corporation. Why, what justification is there for holding a relatively minor participant in an accident fully and totally and completely responsible for all of the consequences of that accident? In any event, when one asks that question with respect to a volunteer organization, to the Boy Scouts of America, to a church or other charity, social and recreational clubs, to the seven categories which are the subject of this amendment, it becomes even more difficult to answer, yes, we have to stick it to them, simply in order to see to it that an entire judgment is paid.

Does that discourage volunteer and social organizations? Yes, it does. Does it wipe them out? Obviously, it does not. Does it discourage them from getting into certain kinds of activities which may create a risk of liability? Yes. Does it reduce the number of charitable and social activities which take place? Almost certainly it does. When one goes beyond that to the effect on the volunteer, himself or herself, the problem is doubled or tripled or more.

It seems to me very difficult, in other words, Mr. President, to argue against the proposition that these organizations which we all support, and which to a very considerable degree are the subject of the bill to which this amendment is offered, should

suffer from this broad concept of joint and several liability. I say that this is particularly the case when, unless the Commerce Committee members are most unrepresentative of the body as a whole, a majority of the Members of this body will be willing to support a much more sweeping change and restriction of State laws on joint and several liability.

The second provision in this amendment is a mild method of alternative dispute resolution, almost hortatory in nature, but one which certainly every Member can support. The ability and the encouragement to settle disputes without full blown trials is of great advantage to the litigants. It is a tremendous advantage to our system of justice. As a matter of fact, it is difficult to think of any party to whom it is not an advantage, except for certain unprincipled lawyers.

Finally, the national Good Samaritan rule, of course, is nothing new, as the Senator from Arizona pointed out. Many States have adopted such good Samaritan rules on a statewide basis. The justification for doing it here is, first, that it is good policy because it will encourage more voluntarism and prevent at least certain frivolous or unjust lawsuits from being brought. Second, because it is proposed as an amendment to a bill which already deals with voluntarism.

I am encouraged to hear that the Judiciary Committee is likely soon to have hearings on the bill which I am certain I would support, if it were on the floor of the Senate for debate, and which is authored by the distinguished Senator from Arizona. But even if it were, it would only encourage States to do what a number of States are already doing. And what its fate will be in the Judiciary Committee after that hearing is very much an open question.

There are occasions, Mr. President, on which this former State attorney general, while he is delighted to be a lawyer, is delighted to not be on the Judiciary Committee, which seems to take a great deal of time to debate the simplest issues.

Here we have an opportunity to debate and decide on what seems to me to be a relatively simple issue, the inclusion of which in this bill would probably do as much to encourage voluntarism and volunteer organizations as the entire bill itself will accomplish.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. President, the amendment that has been proposed has some rather broad and far-reaching consequences that could occur. There have been no hearings on this amendment as proposed in the Judiciary Committee.

There was a hearing 2 years ago on the bill that had somewhat of a similar label, but none of the contents that are included in this amendment were included in the bill that was up for a

hearing some 2 years ago. It is rather treacherous to pass legislation, particularly in a complex field where there have been no hearings, and where we do not realize the consequences that could arise from ill-advised action without some thorough study.

Let me say that I am a supporter of voluntarism and volunteer services, and I commend the civic mindedness of those who serve in volunteer capacities. The spirit of voluntarism is a centuries-old tradition which I believe the State and Federal Government should promote and protect.

But in looking first at the doctrine of joint and several liability as it is drafted, and in the language that is here, it would apply to 501(c) tax-exempt organizations and say that joint and several liability may not be applied to those organizations.

Senator KENNEDY, in effect, showed you two books of the list of 501(c) organizations which were published by the Internal Revenue Service, but somehow or another, if you get the cameras on it and show the fine print on each page, there must be on one page some 200 different organizations that qualify, and this first book alone has 783 pages of them.

The second book, which is another volume of the same thing, has over 760-some-old pages. More than 1,500 pages multiplied by 200 or 300 organizations to the page would indicate that the proposed amendment would cover a great number of organizations. You would be granting, in effect, almost immunity as it would apply to these organizations, and I want to go a little bit further when I say granting immunity to them from all practical tort litigation that might occur relative to this matter.

Just to name a few of those who are in it and not to indicate any one way or another, there is a Ossibaw Foundation—I do not understand what that is—and a RFW Foundation, and other numerous ones you cannot figure, but there are also labor unions. There is the American Civil Liberties Union, and there are all sorts of hospitals, universities, and others that are included within it. The amendment also includes trade associations and the Chamber of Commerce, and I assume that would include the opposite of labor unions that still were included in it. I am not critical of this or saying one way or the other, but the point I am making is the breadth, the far-sweeping aspects of this amendment that have not been studied or had witnesses to review and testify before a committee of Congress.

Now, the breadth and the far-sweeping aspect of this is not limited to organizations, but the implication of the "joint and several" section has such far-sweeping language that it does things that I do not believe that Senator McCONNELL realizes or that others realize what it would do.

I have discussed this with some lawyers and raised this issue. The way the joint and several liability section of this amendment is written and the language that is in, it says that an organization may not be found liable for damages attributable to pro rata share of fault or responsibility of any other person.

Let me read that again: An organization may not be found liable for damages attributable to pro rata share of fault or responsibility of any other person.

From the lawyers that I have consulted with and the way I view that, that abolishes the doctrine of master-servant. There may be some question here since he has an amendment, but this is a following illustration: If a nurse by negligence gives an individual a hypodermic needle that causes that person to be a vegetable, that nurse is responsible, but the hospital, under the language here, is not.

We all know that hospitals carry insurance. In some hospitals there are provisions in insurance that would cover the nurse but in some there are not and the issue would arise. They might get a judgment against the nurse, but it would be uncollectible and a person being a vegetable would have to require constant care, perhaps oxygen, for the remaining part of his or her life.

Mr. McCONNELL. Mr. President, will the Senator yield on the hypothetical?

Mr. HEFLIN. Yes.

(Mr. SHELBY assumed the chair.)

Mr. McCONNELL. First, I say to my friend, nurses and doctors are exempted in the amendment.

Mr. HEFLIN. I just used that as an illustration. We can use it for a janitor or anybody else. That is also one illustration. The Senator has just changed his amendment, and I had my prepared remarks based on his initial amendment, so I did not immediately change my illustration. I can change it to another scenario, but it is the same principle.

Mr. McCONNELL. I urge my friend to address the amendment before us. I make the point the doctors and nurses are exempted.

Mr. HEFLIN. I am addressing the issue of master-servant and addressing the language that is contained in this bill. It has to be that whoever drafted this, in my judgment, either did not know the law of master-servant or was trying to put a sleeper in it.

I have seen a lot of sleeper amendments that have been brought before the Senate and before committees, and one of the standard methodology of handling legislation is to have hearings in order to identify sleepers and sleeper language.

In this instance we have had no hearings. I am perfectly willing to have a hearing on the doctrine of joint and several liability.

This amendment also would, in my judgment, abolish the law of agent

and principal with this language that is contained herein.

This could mean that the hospital or, we can say, the university could not be responsible under this language for the fault of its bookkeeper.

Again, in looking at the amendment's language and expressing a need for a hearing in this regard, could this mean—and I think it is subject to this interpretation—that the Government could not hold a 501(c) organization responsible for civil fines for the fault of an officer or an employee in regards to Superfund cleanup?

We have the Clean Air Act that is before us today and under the 501(c) there are hospitals, there are universities, and there are all sorts of organizations that would be included herein that could be involved in polluting the air. Under the joint and several immunity that is granted here in this regard, it would mean that the Government could not bring a civil liability suit for civil fines relative to this. I have to admit this might be subject to a different interpretation, but unless we have a hearing this issue does not get cleared up.

On the issue of civil liability, does this include violations pertaining to price fixing? Can the Government take action to bring suits pertaining to various antitrust provisions? It is in the realm of civil liability, but the way this is written it appears to me that it has such a broad sweep that it could give immunity in many different ways.

The antitrust dispute resolution section here does not seem to me to add much one way or the other. I suppose it is there for window dressing. It says basically that the plaintiff has to advise a defendant party or parties of the existence and the availability of alternative dispute resolution options, including extrajudicial proceedings such as minitrials, third-party mediation, court supervised arbitration and summary jury trial proceedings. But some of those have not yet been adopted by the various States relative to being available. It is somewhat putting the cart before the horse—the issues now pertaining to court-supervised arbitration, minitrials and third-party mediation. Some of these are on an experimental basis in the country today, but basically it is window dressing.

Then we must address the issue of the section which deals with a fine, very attractive term called national Good Samaritan rule. Again, this applies to a volunteer of a tax-exempt organization described in section 501(c) of the Internal Revenue Code of 1986, similar to the joint and several liabilities section of this amendment. And then this section raises the issue as to whether or not a volunteer can be held liable. Basically, it was originally written "willful and wanton," which meant only intentional. He amended that now to put the word "or reckless" in it.

But this just to point out the need for hearings. The word "and" between willful and wanton or the words "or reckless" after willful and wanton are very, very materially different in the application of the law pertaining to torts. I am delighted to see he made that change, but it points out the need for a hearing in regard to his amendment.

We have basically over the years felt that tort law should be left to the States. There are several proposals that are pending in regards to issues like product liability, general aviation product liability. There is division among industry and among business groups and insurance groups as to whether or not there ought to be Federal preemption in these fields.

As one person who believes in States rights and believes that the tort law ought to stay in the States said, "You know, every Federal cure turns out to be a Federal plague." And I thought about that, and I said, "You know, that makes some sense."

There are some people that think that the business community has been misguided and may need a guardian relative to the issue pertaining to Federal preemption.

But now I want to address the issue pertaining to the question of injuries and damages where volunteers are present. This, of course, would mean that they could not be held liable for their negligence. It is questionable. I think a hearing is needed to determine whether or not volunteers could be held liable for gross negligence. The amendment gives certain immunity in regards to the issue of gross negligence.

Our laws have been developed with the idea that citizens had a right of remedy for injuries that are inflicted against them. We usually call a person that inflicts injury a tort-feasor. As a result of that, we have seen insurance companies develop that provide various types and forms of liability insurance.

A few years back, the insurance industry wanted to give broader and more fuller coverage—and it was a very commendable idea and it was something that they sold—and they came forward with a homeowners insurance policy. Now, the homeowners policy was primarily for property damage, protecting the house from being burned, but it also included a new provision that gave comprehensive liability coverage when you went and took an activities. In practically every instance in regards to a volunteer, whether it be Little League or whether that be Boy Scouts or anything else, a homeowners policy provides protection against the homeowner and his family relative to any tort liability that might be brought in that connection.

I think we need to have a thorough hearing as to whether or not this is needed. I am not advocating this one

way or the other because my main purpose in arguing today is to let the Judiciary Committee have a hearing and let the committee determine the broad sweep of this, let us look into this and be more careful.

But there are a lot of other problems that are connected with the amendment. Some say that there is a volunteer crisis. I do not know whether there is or not. But I think that is a subject of a hearing and that we ought to delve into that issue.

I want to quote a few unfair results that could be produced by the McConnell amendment. This is sort of a superfund illustration. A community discovers that a contractor has illegally dumped medical waste from a number of hospitals in a wooded area, or from various other places, not just necessarily hospitals. The nonprofit negligently allowed this dumping, although claiming that very little of their medical waste was involved.

Under the McConnell amendment, the community would not be able to recover fully from any one of the defendants from the damages and costs of waste removal, because this amendment goes further and gives some shield, some protection to the for-profit companies and individuals in regard to this joint and several liability in cases where one of the parties, or the defendant is a 501(c) organization.

I could list other unfair results, I think, that would occur. But it appears to me that this aspect needs a hearing. I am the chairman of the Subcommittee on Courts. I am perfectly willing to hold hearings on this. I have never been asked to give any hearings.

But, as I look at this, the breadth, the far-sweeping consequences that can arise in this instance certainly should mean that this ought not to come up at this time and we ought to have hearings to further investigate and to review proposed legislation in this area, including the McConnell proposal.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I do want to say a few words about this because I think the Senator from Kentucky has an excellent amendment. I think he deserves the support of some of us who believe he is doing this country a favor in bringing this amendment to the floor of the U.S. Senate.

I think we should encourage persons who volunteer to make our communities and our country a better place. America has become great because of her people. We have become a great country because we have people who are willing to give of their time to help others without any expectations.

This bill fosters that. That is why I am a strong supporter of this bill.

I believe this amendment will foster increased voluntarism.

Without this amendment, this bill may not be as effective in encouraging

increased volunteer activity. It is very natural that volunteers today have a reasonable fear of financial responsibility every time they perform a service in this community. The mere threat of liability is sufficient to stop some in America from donating their time, their talent, and their goodwill.

After all, there are trial lawyers in every community offering—even advertising—to take cases on a contingency fee basis. I would be the last to argue that contingent fees are wrong. I, frankly, think that the contingent fee case is a way that many, many people can afford lawyers. And I have no problems with that.

What really is there, though, for an injured party to lose from filing a case in which an attorney has been willing to handle it for a contingent fee? An injured party really does not have a very substantial way of losing, in those circumstances. So we have lots of lawsuits. Some of them are valid. Some of them are not. But here we are talking about volunteers. We are talking about people who, out of the goodness of their heart, are going to help others within the community, help the community as a whole, the State as a whole, and our country as a whole. And, that will help all of us.

I understand that this amendment is a Federal exemption of tort activity which is normally subject to State law. But, this is a very narrowly tailored exemption. This Good Samaritan rule applies only to individuals. Even now it only applies to individuals volunteering for certain section 501(c) tax-exemptions—tax exemptions given by the Federal Government. These organizations have voluntarily taken advantage of the provisions of the Federal Tax Code. It is not unreasonable for Congress to offer some protection for those volunteers who carry out the purposes of this particular exemption.

Moreover, the individual must be acting in good faith and within the scope of the tax-exempt organization's activities.

No person is exempted from liability for damage or injury caused by willful, reckless, or wanton misconduct. That covers a wide variety of causes of action.

No tax-exempt organization is exempted from liability. Indeed, the tax-exempt organization itself remains free to bring a civil action against any of its own volunteers.

This exemption does not apply to any individual volunteer who caused damage or injury while operating a motor vehicle, vessel, aircraft, or other vehicle for which a license is required. For all of those we can bring lawsuits.

This exemption does not even apply at all to any volunteer undertaking an activity for which he or she has a Federal or State license. For example: A physician voluntarily providing health services in a homeless clinic is not exempt from personal liability if he or she provides those health services in a

manner inconsistent with professional standards.

If this same doctor, however, volunteers to serve as a little league coach, he or she should not be subject to personal liability for good faith acts or omissions in that role. This amendment ensures that the doctor in that situation will not be subject to liability.

What we are talking about here is protecting a volunteer for the Boy Scouts, a volunteer for the Girl Scouts, the Little League coach, and countless others who give of themselves to others. We can take this narrow, carefully tailored step to protect and encourage volunteers.

I want to compliment the distinguished Senator from Kentucky for being willing to bring this to the floor on our bill. I think it will help our bill. I think it enhances voluntarism. I think it will save Americans money, and certainly we ought to, under these narrow circumstances, protect these people.

Let me talk just a minute about an aspect of it, the alternative dispute resolution part.

ALTERNATIVE DISPUTE RESOLUTION

This amendment also requires that, in cases where one party is a specified section 501(c) tax-exempt organization, attorneys advise their clients of the availability of alternative dispute resolution options.

I believe this is a very worthwhile requirement. Our courts are overloaded. Protracted litigation is expensive. No party is required to use an alternative dispute resolution. But this will encourage more amicable and less expensive resolutions of disputes, and this will help our tax-exempt organizations and the courts.

With regard to joint and several liability this amendment also abolishes joint and several liability for certain nonprofit, tax-exempt organizations. The unfairness of joint and several liability laws has been recognized in many States in recent years. They have adopted comparative liability standards which make sure that each defendant in a civil lawsuit pays only for the damage attributable to his or her wrongful conduct. There should be nothing controversial about this feature of the proposed amendment. It just reflects basic fairness and, again, is subject to all of the narrowness that this amendment restricts itself to.

I also wish to note that this provision does not apply as between persons acting in concert, if the concerted action proximately caused the injury for which one or more persons are found liable for damages.

This amendment, in my opinion, is well thought out, it is well constructed, it is an amendment that makes sense and, frankly, it is an amendment that will help this bill to reach its purpose of encouraging more and more people to get involved in volunteer activities.

It makes sense. And I think to fight the amendment means we are getting on the side of those lawyers who have plenty of lawsuits anyway to bring, under legitimate circumstances, and who really ought not to be bringing lawsuits in this particular instance anyway.

It is narrowly tailored, a very restrictive set of circumstances. I think we ought to encourage this. I think it is one of the prices you pay. I happened to have been a trial lawyer, as I am sure many others in this body have been. I have tried many negligence cases and personal injury cases. I have a lot of empathy with that system, especially the contingent fee system, because it is a way those who are poor or who cannot afford an attorney can come to court. I agree with all that, and I agree with the attorneys who want to protect them from personal injuries and get them proper damages in those cases, but I think it is going a little too far when you say this amendment should be accepted because of any reason at all. It is so narrowly construed that it basically takes care of volunteers in a simple situation that would not make sense to take care of. I hope my colleagues will think about this because it is precisely the type of thing that even attorneys ought to be prospering.

We have been Little League coaches, too. We have gone in there and helped people in distress. Some of us have even been Boy Scout scout masters. Some of us have even been Girl Scout scout masters. I think those type of activities ought to have some degree of protection. Keep in mind there are protections for the person who gets injured if there is willful, wanton, or reckless conduct. I think all of that needs to be said.

I hope my colleagues will look seriously at this amendment. I compliment the Senators from Kentucky for bringing it to the floor. It is like him; it is the way he does things in this body: cautious, considerate, worthwhile, and a decent thing to do. I want to compliment him for it and tell him I am going to support him on the floor and hope others will also.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I want to thank my friend from Utah. I know for many years he has been a strong advocate of States' rights in these matters. Obviously, the case that has been made here today convinced him that, at least in this particular instance, there was enough of a nexus to the Federal Government to warrant Federal legislation.

I think it is important to remember, Mr. President, that we are talking here about groups whose very existence is authorized under Federal legislation. This amendment applies not to a huge number of organizations throughout 501(c), but this amendment applies only to organizations in 501(c)(1), that is, congressionally char-

tered organizations, such as Boy Scouts, Red Cross, and Little League; 501(c)(3), charitable religious and scientific organizations; 501(c)(4), social welfare organizations; 501(c)(6), business leagues and trade associations; 501(c)(7), social and recreational clubs, such as women's clubs; 501(c)(14), credit unions, which rely a lot on voluntarism in rural areas; and, most important, Mr. President, 501(c)(19), veterans organizations.

If I may offer, Mr. President, just a couple of observations about some of the comments made by my colleagues on the amendment. There is some indication that this was somehow a new issue; that it had not surfaced before; and that there are additional hearings needed.

I might say that on the general question of tort reform, whether it is product liability or more comprehensive measures, such as those I have supported and introduced over the last few years, most congressional committees have had some hearings on some aspect of this problem or another. On the volunteer part of it, the Subcommittee on Courts and Administrative Practice, which my friend from Alabama chairs, held a hearing on May 20, 1988, regarding Senator Melcher's S. 929—on the Volunteer Protection Act of 1987. The record in that hearing, over 300 pages, covered many aspects of the problem that we are talking about today. So I think this is not a new issue, and it is certainly totally germane to the bill that is before us.

There has been some discussion about laying back and allowing the States to take care of this problem on their own, and certainly some States have acted and some have not. But I would refer to the very hearing that I mentioned, held on May 20, 1988, before the subcommittee of the Senator from Alabama, Gordon MacDougall, who is head of the National Coalition of Volunteer Groups, in response to questions about waiting for States to act was going to solve this particular problem, had this to say:

Many states have acted to both protect volunteers from being named in negligence lawsuits and reduce liability insurance costs for nonprofits. Over forty states have passed laws limiting the liability of directors and officers of nonprofit organizations. About fifteen states have properly instituted nonprofit risk-management programs and/or risk pools to stabilize liability insurance premiums.

He goes on, Mr. President, and this is the part I particularly want to emphasize:

Some of these state laws, though, are dangerously limited. Indiana's law names fraternity and sorority volunteers, the Michigan law names ski patrol volunteers, and the Wyoming law names hazardous waste clean-up volunteers and amateur rodeo volunteers. While we recognize that each state has different volunteer needs, we firmly support a federal effort to design consistent and comprehensive guidelines for state volunteer liability standards.

He goes on to say in reference to the States efforts:

This problem is not being corrected, rather it is being exacerbated by states providing limited liability for select groups of volunteers.

Mr. President, we have historically, when there was a compelling Federal need for uniformity, ignored, if you will, federalism in order to meet a compelling Federal need. Here we have groups that are authorized under 501(c) of the Tax Code. We have groups that are providing an important volunteer service for America. By their testimony on Senator Melcher's S. 929, they have stated a serious litigation problem. Various States are trying to meet the need, but they are meeting it in a way that is inconsistent and is not providing relief. So we have the head of the coalition group on volunteer protection which represents over 800 groups, saying the State approach is not going to work because we are getting entirely different results in each State. Of course, many of these volunteer organizations operate across State lines. Take the Red Cross, for example. The Red Cross has 50 different sets of standards in terms of its volunteer activities.

Mr. President, I suggest most respectfully to my colleagues who oppose this amendment that this is a Federal problem that requires a Federal fix. What we have here today in the amendment of the Senator from Kentucky is a very modest, restrained, narrowly crafted amendment to deal with the problem.

Let me repeat what the amendment does. We are not giving volunteers unqualified immunity. I repeat, we are not giving volunteers unqualified immunity. What we are saying is that a volunteer who, No. 1, acts in good faith; No. 2, acts within the scope of activities of the organization; and No. 3, does not act in a willful, wanton, or reckless way in carrying out volunteer activities should be protected. All three of these have to be met.

We are also stating that the volunteer is not afforded this protection where the volunteer was operating a motor vehicle, aircraft, vessel, or other vehicle requiring an operator's license or where the volunteer was performing an activity which was subject to State or Federal license or certification. For example, doctors, lawyers, and others who offer their services pro bono will be held to the same standard of negligence as they presently are.

So this is a very narrowly crafted amendment to deal with the specific problem that is confronting volunteer organizations across America.

Mr. President, we need to make some effort to be consistent. I know that it has often been said that consistency is the hobgoblin of little minds, but, in fact, everybody in this body waves notions of Federal preemption periodically. An awful lot of people in this body support product li-

ability legislation. That is clearly a proposal preemption of State tort law to the extent that it is enacted.

But the organizations the Senator from Kentucky is talking about receive their very life blood from the Federal Government. They are authorized under 501(c) of the Internal Revenue Code. They would not, I suspect, be in existence but for the tax status granted them by 501(c). Further, 501(c)(1) organizations, the Boy Scouts, and so forth, are actually chartered by the Congress of the United States.

It has been suggested that we are somehow tampering with the master-servant relationship. The Senator from Kentucky is certainly not an expert on that relationship, but I believe it is correct that a servant is not a volunteer. He is an employee. We are dealing with volunteers and volunteer organizations. We are abolishing joint and several liability only for those volunteer organizations specifically stated in the amendment.

The Senator from Alabama finally, I would point out, mentioned that in certain suits we are giving protection to for-profit as well as to not-for-profit corporations if they are involved in the same lawsuit. It is the view of the Senator from Kentucky that joint and several is a bad doctrine anyway, and I am in favor of eliminating this doctrine across the board, whether it is a for-profit corporation or a not-for-profit corporation.

I do not know whether the Senator from Alabama has indicated that he might support my amendment if I were to, even in that situation he defined, limit the protection to only the nonprofit organization in that lawsuit. But I say to my friend, if it would pick up his support, I will be happy to so modify my amendment.

The view of the Senator from Kentucky is that the joint and several doctrine needs to be gone for a whole lot of reasons across our society, not just for nonprofits. But is the Senator from Alabama would support the amendment of the Senator from Kentucky, in that situation he described, that hypothetical in which you had both not-for-profits and for-profits in the same litigation, the Senator from Kentucky would modify his amendment to bring on board the Senator from Alabama.

Mr. President, that is all the remarks I wish to make at this particular point. I see there are others on the floor who would like to speak, and I will gain the floor later in the debate.

Mr. PELL. Mr. President, I support the notion of protecting volunteers from civil liability. In fact, I have agreed to cosponsor a bill introduced by Senator DeCONCINI, S. 520, the Volunteer Protection Act, which has been referred to the Senate Judiciary Committee. This bill is designed to protect from civil liability volunteers who are acting in good faith and within the scope of their duties.

At the same time, I recognize that Senator DeCONCINI's bill, and Senator McCONNELL's proposal offered today, would make significant and dramatic changes in tort law. I believe that such changes should be considered first by the committee of jurisdiction, in this case the Judiciary Committee. We should not be in the business of making important policy changes on the floor of the Senate without consideration first by the committee with the greatest expertise in the area.

While I would like to support the Senator from Kentucky in his effort to protect volunteers from the civil liability that many feel reduces their ranks, I cannot support this change in law today when the Senate, and, in fact, the members of the Judiciary Committee, have not yet reached a consensus on how best to approach this problem.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. May I inquire of the Senator from Alabama very briefly, and then I will yield the floor. On the section of the amendment that relates to joint and several liability, I just want the RECORD to reflect that even though there were general volunteer liability hearings, I do not understand there have been hearings on this particular issue as it relates joint and several liability. I would require whether under section A, except as provided, joint and several liability may not be applied to any civil liability action if one party is a tax-exempt organization as described in this amendment; and that organization, to get this exclusion, would not have to have a single volunteer, would it?

Mr. HEFLIN. No. The Senator was right.

Mr. KENNEDY. So you are creating that kind of exclusion for joint and several liability when it has nothing to do with voluntarism. Is that one of the parts the Senator was referring to when he was talking about the breadth and the scope of this particular amendment? That is only one section of this amendment. Does the Senator find that that is somewhat troublesome? That in this first part of the amendment we are excluding from coverage all of the various organizations that the Senator from Kentucky has talked to and they do not even have to have a single volunteer involved? We are just giving them a blanket exemption.

Mr. HEFLIN. I think the Senator from Massachusetts is correct. That is what sort of disturbs me in this instance. It is called the Volunteer Liability Protection Act. The third section deals with that, but why put in abolishing the doctrine of joint and several liabilities for tax-exempt organizations? And that is what makes me very suspicious that this is a sleeper amendment. It has nothing to do with volunteers, and the Senator from Massachusetts is certainly correct. You

could have a university that might not have a volunteer at all. There are thousands and thousands of organizations that have never had a volunteer, and the issue of abolishing the doctrine of joint and several liability has nothing to do with volunteers. That volunteer section deals with those organizations that are 501(c) organizations under the Internal Revenue Code. So really that first section dealing with abolishing the doctrine of joint and several liability has nothing to do with voluntarism.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, this McConnell amendment is a new concept to me and I really did not look at it until this morning. But the more I examine it, the more I am convinced it is a terrible idea.

It is based on what I believe is an absolute false premise; that is many people are not volunteering because they are afraid of being sued. Betty Bumpers is the founder of a voluntary organization, Peace Links. They have about 40,000 people involved. I do not think anybody in that organization has ever raised the question of whether they would be sued if they worked for Peace Links.

No. 2, as a former Governor, I am greatly concerned that the States be allowed to determine their own tort laws. I can tell you that this amendment is a radical departure. I know of not other time that Congress has tried to determine what ought to be the tort laws of a particular State.

I am not a big fan of joint and several liability, but that is a law in my State. I do not know whether there are other States that do not permit joint and several liability. But we should not, on first impression on the floor of the Senate, adopt an amendment which tells the States, "You are no longer supreme in tort law in your States."

No. 3, the amendment states that plaintiffs must notify the parties of alternatives to litigation. There is a strange one for you, Mr. President. We do not have any way of resolving disputes like this in my State except in court. There is no forum in my State before which these people can go to resolve tort actions except for civil courts.

So I assume the Senator from Kentucky wants the State of Arkansas to set up a new forum with all the costs that that would entail before which people who are considered volunteers, and those whom they have damaged, could appear to resolve any claims for damage.

No. 4, consider this issue of not holding volunteers liable for damages and injuries caused by willful or reckless misconduct. If you are dead, it does not really matter whether you were killed by negligent conduct or grossly

negligent conduct. The effect is the same on the decedent. And the effect is the same particularly on the survivors, the children of a young mother—who is now dead and can furnish no further nurturing to her children. These survivors get nothing, for their future support, for their education or anything else because she only died as a result of negligence not gross negligence.

No. 5, the term "volunteer" is not even defined in the amendment. We are debating a bill which says, in part, that young people can have part of their student loans cancelled by volunteering. This provision, which I authored, is an attempt to alleviate the terrible burden of students who are graduating from colleges and universities all across this country burdened with an unconscionable debt through direct and guaranteed loans. We are saying with this provision that if you want to work for community service you can be paid a minimum wage, and the Government will pay something on top of that in the way of forgiveness of your direct and guaranteed student loans.

The question arises, "Is somebody really a 'volunteer' because he is only making \$3.35 cents an hour and could be making \$30 an hour or \$20 an hour?" Are they volunteers? Do you have to be unpaid in order to be a volunteer under this amendment?

Sixth, what is even worse is the point that was just made by the Senator from Massachusetts and the Senator from Alabama; that this amendment applies to every single 501(c)(3) tax-exempt organization in America, hundreds of thousands of organizations, whether they employ or use a single volunteer or not. This amendment has nothing to do with voluntarism.

Then there is the Good Samaritan rule. The effect of this amendment is, if you are a layman, you are trying to be helpful, and you do not know what you are doing, you are exempt from liability. If you are a doctor, or even a lawyer, or a CPA, a chiropractor, a member of any profession licensed by the State, you know what you are doing, and you are trying to perform pro bono work you are not exempt from liability.

For example, I hate to keep alluding to my wife, but when I was a Governor, one Saturday, after 2 years of work, we immunized 300,000 children in one day in my State. Doctors and nurses all across the State lined up to volunteer, knowing that when you give a DPT shot, 1 out of every 300,000 kids is going to suffer profound retardation. Incidentally, I might say not one single doctor or nurse in the entire State—and virtually all of them were involved in it—ever asked one question about whether they were going to get sued. But doctors would not be exempt from liability under this amendment. They are really Good Samaritans because they are performing a service

that is in their line of work. They know what they are doing. But you take some jackleg who does not know what he is doing, and he is exempt from liability.

What kind of a perverse result was intended from this amendment on that point? There is absolutely nothing in here alluding to punitive damages, or attorneys' fees and whether they can be contingent. There is nothing covering pain and suffering.

I do not intend to denigrate those who favor this amendment. I am simply saying that this is a classic case of why we ought not to legislate things like this on the floor of the Senate with no hearings, no consideration, and no right or opportunity for people to testify in opposition to it. But I will say this: it would not be any time at all until we would be extremely sorry we adopted an amendment like this.

It is unfair to the States for us to rewrite their tort laws. It is unfair to the States to force them to set up some sort of a forum, to allow these people some alternative to civil litigation.

It is not that it could not be done. It could be. We have done it in the childhood vaccine safety program. If a child suffers an ill effect today from an immunization, we allow them two courses of action. They can go before a commission and try to resolve the amount of damages they are entitled to, or they can sue. They have that option. Here I guess they would too. But this amendment does not set up a forum. It does not set up a commission to hear these claims.

Mr. President, in short, this amendment is fatally defective. We have never done this sort of preemption before. We ought not to even think of starting off on this course without extensive hearings and opportunities for the experts of this country to testify as to what the likely result is going to be.

Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I want to join in expressing my very strong opposition to the amendment proposed by the Senator from Kentucky.

This amendment involves making fundamental changes in tort law. In fact, it would preempt State tort law by abolishing the doctrine of joint and several liability for nonprofit, tax-exempt organizations. It would require all defense and plaintiff attorneys to inform clients of alternatives to civil litigation, and finally it would exempt volunteers from liability for negligent acts under certain circumstances.

Mr. President, this amendment would open up a very complex issue that goes far beyond the simple issue of tort liability of volunteers and volunteer organizations and would draw the Federal Government into an area which has historically been within the providence of the State Governments.

Obviously a step of this magnitude should not be taken on the floor of

the Senate. It ought to be considered and debated in the Judiciary Committee after thorough hearings. I am strongly opposed to this attempt to rewrite State laws dealing with tort liability. I have always been opposed to this and I see no justification for federalizing State tort law any more than State divorce and child custody law. Under our Federal system, the States have historically had jurisdiction in this area and we ought to defer to their expertise in this complex and controversial area.

This amendment raises extremely complex issues particularly when we venture into the area of joint and several liability. Joint and several liability is a well-established doctrine in the law. To abolish it as it relates to certain organizations as this amendment proposes to do, without the benefit of having the Judiciary Committee even examine this issue is irresponsible. The chairman of the Judiciary Committee, Mr. BIDEN, and the chairman of the subcommittee, Mr. HEFLIN, have indicated their willingness to hold hearings on this issue and examine it and similar legislation. That is the way we should proceed.

Adoption of this amendment would seriously jeopardize passage of S. 1430 and I encourage my colleagues to vote against this amendment.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I listened with interest to the Senator from Arkansas, and he is, of course, a fine speaker and speaks very passionately on an issue before this body. The Senator from Arkansas also indicated that there was not a problem with volunteer organizations; that he was unaware that there was a problem here. And he indicated an organization which his wife had been involved seemed not to express a concern about this.

I am going to read this at the end. There are a number of organizations that do think there is a problem. I will read that at the end before we vote. But there is an umbrella organization called the National Coalition for Volunteer Protection which includes 800 organizations which certainly do believe that there is a problem. There have been hearings on that subject which I referred to earlier in the debate, raising some of the issues that the Senator from Kentucky is offering to address today. But there certainly have been hearings on the problems. Clearly, Little League Baseball, Boy Scouts of America, B'nai B'rith, and a host of others believe that there is a problem out there.

With regard to the definition of volunteer, I think the Senator from Arkansas or the Senator from Massachusetts, whichever one made the point, made a valid point, and in order to create legislative history, let me read

into the RECORD the definition of volunteer that the Senator from Kentucky certainly expects to be applied to this legislation. I read the definition of volunteer from S. 929, the Volunteer Protection Act of 1987, in the previous Congress introduced by Senator MELCHER.

The term "volunteer" means an individual performing services for a nonprofit organization or a governmental entity who does not receive compensation, or any other thing of value in lieu of compensation, for such services (other than reimbursement for expenses actually incurred or honoraria not to exceed \$300 per year for government service), and such term excludes a volunteer serving as director, officer, trustee, or direct service volunteer.

Mr. President, I argue that this is indeed a narrowly crafted amendment, not a broad sweeping amendment. It applies only to certain selected sections of 501(c). This amendment applies only to section 501(c) subsections 1, 3, 4, 6, 7, 14, and 19.

Those groups, Mr. President, include congressionally chartered organizations, such as the Boy Scouts, Red Cross, Little League, and charitable, religious, educational and scientific organizations, social welfare organizations, business leagues and trade associations, social and recreational clubs like women's clubs, credit unions who rely on volunteers in rural areas, and veterans' organizations.

So this is not a broad amendment. It is a very narrowly crafted amendment designed to deal only with volunteers of those specific organizations. It also does not insulate volunteers from their reckless acts. And it does not—I repeat, does not—apply where they are professionally licensed; it does not apply where the volunteer who is performing an activity is subject to State or Federal professional license or certification. For example, doctors, lawyers and others who offer their services pro bono will be held at the same standard of negligence they are now.

I understand how reasonable people can differ. However, the feeling of the Senator from Kentucky is that this is not a broad amendment. It is appropriate on this piece of legislation, because this legislation brings certain kinds of volunteer activity within the purview of the Federal Government which has actually chartered, or made possible the existence of, the organization.

Mr. President, there are at least two other Senators on this side of the aisle who would like to speak. I also ask unanimous consent to add Senator WALLOP and Senator BOND as cosponsors.

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

Mr. McCONNELL. Mr. President, I ask if there are others on that side of the aisle who wish to speak.

Mr. KENNEDY. We were trying to accommodate the membership. We also want to move along with the legislation, as well.

Mr. McCONNELL. I could not agree more. Senator KASTEN, I am told, is on his way.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. 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. McCONNELL. Mr. President, it is now my understanding that there are no more speakers on this side of the amendment. It is my understanding, even though he is not on the floor at the moment, the chairman of the committee would like to go ahead and wrap this up. So I think I will make my closing statement and ask for yeas and nays.

Mr. President, the amendment before us does three things.

First, the amendment says that no nonprofit organizations can be held liable for the wrongdoing of others. If an organization person is only marginally responsible for causing an injury, then its share of the damages ought to be proportional to his share of responsibility for causing the injury. We abolish joint and several liability for these nonprofit organizations.

No. 2, this amendment provides a mechanism for all parties in a litigation with nonprofit organizations to look at alternatives from full-scale litigation of disputes involving civil liability action, in other words, the advocacy of alternative dispute resolution.

No. 3, my amendment provides limited immunity for an unpaid volunteer, as previously defined earlier in the record, as an individual from liability exposure. To qualify for this limited insulation from liability the volunteer would have to be, first, acting in good faith, second, be acting within the scope of his or her voluntary function and, third, not be engaging in wanton, willful, or reckless activity.

Mr. President, my amendment does not do any of the following things: There are no fault base standards in this amendment. There are no limitations on punitive damages. There are no caps on attorneys' fees, punitive damages for pain and suffering; and, no Federal preemption of State tort law except in the very modest way that I have suggested.

Some have said that this is improper somehow for the Federal Government to preempt State law to the limited extent that my amendment would do it. Let me say that the organizations which are covered by this amendment have their very lifeblood as a result of Federal law. My amendment covers organizations in 501(c)(1), that is congressional chartered organizations such as Boy Scouts, Red Cross, and Little League; 501(c)(3), charitable, religious, scientific, educational organi-

zations; also, 501(c)(4), social welfare organizations; 501(c)(6), business leagues and trade associations; 501(c)(7), social and recreational clubs, women's clubs; 501(c)(14), credit unions; 501(c)(19), all volunteers and veterans organizations.

That is what the amendment does Mr. President, and what it does not do and who it applies to.

In terms of the politics of this, it is pretty simple. There is one organization against this amendment, and that is the American Trial Lawyers Association.

I would like to close by reading the names of the organizations in favor of this amendment.

First, Mr. President, there is an umbrella organization of 800 groups called the National Coalition for Volunteer Protection which supports the amendment as well as the following groups:

Little League Baseball, the Air Force Association, Boy Scouts of America, B'nai B'rith, American Horse Council, Second Harvest, National Ski Patrol, American Society of Association Executives, General Federation of Womens Clubs, Academy of Model Aeronautics, National Society of Professional Engineers, Big Brothers/Big Sisters of America, National Employee Services & Recreation Association, Credit Union National Association, American College of Cardiologists, International Legal Fraternity of Phi Delta Phi, National Junior College Athletic Association, American Motorcycle Association, International Executive Service Corps, American Association of Blood Banks, American Association of Museums, Christian World Relief Commission, American Institute of Architects, National Multiple Sclerosis Society, American Association of Marriage & Family Therapy, American Dental Hygienists Association, Railway Progress Institute, Hale Foundation, Human Ecology Action League, Far West Ski Association, Electronics Industries Association, and the Water Pollution Control Federation.

Mr. President, all of these volunteer organizations support this amendment. There is one organization in opposition, the American Trial Lawyers Association; all of these other organizations support it.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts (Mr. KENNEDY).

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

I ask unanimous consent that the outline of the relevant State provisions and a letter from Public Citizen and the Consumers Union be printed in the Record.

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

So that aspect, as nice as it sounds in terms of trying to encourage voluntarism, is already protected.

[October 1989]

State	St Code Cite	Org Coverage	Vol Coverage	Publication (X = Exemption)
Alabama	10-11-1	501(c)(3), St/local govt	Board, Adv Board	Revised, written, gross; X if not for profit; X for vehicle
Alaska	09.17.050	NP Corp, public or NP hospital, school board, municipal board	Board, commission	Agrees, employee, X for corporation
Arizona	10-1017	NP Corp	Board	Revised, gross
Arkansas	12-571 16-4-101	NP Health Clinic St/local govt, com vel org or 501(c)(3)	Vol Physician, dentist Any person who provides goods or services w/o compensation	Agrees employee for employee Not necessarily liable, not liable act/omission; X to extent of insurance for ordinary negligence, X for tort, gross negligence; X for motor vehicle, X for professional services; X for liability limited to beneficiary of will's services
California	5047.5 5239 7231.5 9247	NP Corp, 501(c)(3,6) NP public benefit corp NP mutual benefit corp Religious Corp	Board do do do	Within scope, Agrees, written; Good faith, part of policy-making device; Org must have insurance, X for dealing, X for actions involving discrimination
Colorado	13-21-108 13-21-116 13-21-116 52-557m 8133	Vol Director (non profit) NP Corp Individual 501(c) 501(c)	Volunteer Board Insurance Board Board, Volunteer	Act in good faith, within scope, X for tort, X for intentional gross negligence, X for corporation, X for All General Act in good faith, within scope, X for tort, X for intentional gross negligence, X for corporation, X for All General Act in good faith, within scope, X for tort, X for intentional gross negligence, X for corporation, X for All General
Connecticut	36-2-108.70	501(c)	Board	Revised, written
District of Columbia	607.1645	501(c)(3,4,5,6)	Board	Revised, gross, X for motor vehicle to extent of insurance
Florida	14-3-113.1 416-7 6-1605 32-108.70 34-4-11.5-1	NP Corp NP Corp NP Corp 501(c) St/local govt, NP corp, business trade assoc	do do do do Board, Commission	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General Act in good faith, X for ordinary prudent person
Georgia	25A.24	State Govt	Commission, Vol	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Hawaii	613A.2 613.19	Municipality Unincorporated assoc, NP Corp	do Board, Volunteer	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Idaho	00.3601	501(c)	Board, other person who provides services; X for who delivers health care services in medical facility	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Illinois	411.200	501(c)	Board, Volunteer; not compensated by salary or on prorated equivalent basis	Good faith, within scope, X for tort, X for intentional gross negligence, X for corporation, X for All General
Indiana	9-2792.1 9-2792.3 138-716	Public, charitable or NP hospital or org NP Org w/char or historic purpose NP Corp	Board Board, Volunteer Board	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Iowa	C15-312	501(c)(3)	Board, Volunteer	Org must carry insurance, X for tort, X for intentional gross negligence, X for corporation, X for All General
Kansas	231-85w 231-85w	NP Corp Ch Org, 501(c)(3)	Sports Vol, Board Board	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Kentucky	450.2541	NP Orgs	do	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Louisiana	691.1401 317.201	St/local agency NP Org	Board, Volunteer Board, Volunteer	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Maine	79-11-267 537.117 27-1-732 21-1917	NP Corp 501(c) 501(c) 501(c)(2,3,4,5,7,8,11,19)	Board do Board, Volunteer Board	Good faith Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Maryland	41.485 508.16 2A.534-7 2A.62A-6	NP Corp, Assoc, Org formed under laws of state Ch Orgs & Societies NP Corp, Society, Assoc, Federation NP Org	Board, Volunteer Board Board, Volunteer Sports Vol	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Massachusetts	53-8-25.3 N-P Ch. 720-A 43B-539.10	NP Corp 501(c)(3) Ch Org	Board do Volunteer	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Michigan	55A-28.1A	NP Corp	Board	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Minnesota	32-03-44 32-03-45 32-03-46	NP Orgs NP Orgs NP Orgs	Board Volunteer Sports Vol	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Mississippi	2305.38	Ch NP Corp, Hospital	Board, Volunteer	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Missouri	18-865	501(c)	Board	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Montana	18-867 61-258	501(c) NP Corp, unincorp assoc, commission of state of political subdivision	do Policy-making Board	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General
Nebraska	42-1144 42-8332.1 42-8332.2	501(c)(3,4); St/local agency, engaged in 'public service' NP Assoc 501(c)(3)	Volunteer Sports Volunteer Board	Revised, written, X for motor vehicle, X for tort, X for intentional gross negligence, X for corporation, X for All General

State	IR Code Cite	Org Coverage	Vol Coverage	Protection (X = Exception)
Rhode Island	7-6-9	501(c)	do	Negligence, willful, wanton.
South Carolina	7-6-9(b)	501(c)	Board, "servants"	No liability to participant in sporting event if signed waiver.
South Dakota	35-31-180	501(c)(3.6.12)	Board	Xenotil, wanton, gross.
Tennessee	47-23-4.1	501(c)	Board	Xenotil, wanton.
Tennessee	47-23-29	501(c), Govt entity	Volunteer	Xenotil, wanton, Xvehicle, Xto extent of insurance.
Tennessee	28-3-301	501(c)(3.6)	Board	Xenotil, wanton, gross.
Texas	29-26-201	Govt Agencies	Board, Commission	Xenotil, wanton, gross.
Texas	GP&R 84.001	501(c)(3.4), Xhealth care	Board, Volunteer	Act in good faith and within scope, Xexcess vehicle (to extent of insurance); Xintent, willful, wanton; Xto member liability to organization and its members.
Utah		501(c)(3)	Board	Good faith; Xenotil, wanton, Xvehicle.
Vermont	12-5781	Corporation	do	Liability only to amount of compensation, Xenotil, knowing violations.
Virginia	13.1-632.1	NP Corp.	do	Not liable for "discretionary decision; Xgross; Xthe corporation.
Washington	4-24-64	Public/private hospital	do	Not responsible for care by health care provider Xgross negligence in granting privilege.
Washington	7.70.090			
West Virginia		NP Corp; credit union; fraternal benefit insurance	do	Xconflict of interest, criminal violation; Xreason to believe conduct unlawful; Xenotil misconduct.
Wisconsin	181.227	NP Corp; credit union fraternal benefit insurance	Volunteer	Xcriminal violation; Xreason to believe conduct unlawful; Xvehicle related; Xprofessional services.
Wisconsin	181.297	NP Corp; Government	Board, Commission	Mental/sexual tort or illegal acts.
Wyoming	1-23-107			

CONSUMERS UNION,

Washington, DC, February 27, 1990.

DEAR SENATOR: We are told that the Senate may consider a McConnell amendment to the National Community Service Act, S. 1430, that would immunize volunteers and non-profit organizations from liability judgments. As a non-profit organization, and as a consumer group, we must urge you to oppose this misguided amendment.

Individuals, or organizations, whose negligence inflict harm on others should be held liable for their conduct. The fact that such individuals or groups may be inflicting this harm in their capacity as a non-profit organization or a volunteer should not control the outcome of a personal injury dispute. Courts must be free to evaluate the relative reprehensibility of the conduct at issue, without a rigid directive from the Congress.

For the past decade, product manufacturers, the general aviation industry, and the insurance industry, have sought federal legislation that would make it harder for tort victims to recover damages in court. Proponents argue, without producing any objective evidence to support the contention, that legislation would stave off the ravages of skyrocketing insurance costs. The crisis in insurance availability and affordability during the mid-1980's was not caused by "runaway" juries. Instead the insurance crisis was caused by run amok insurance executives who engaged in underwriting based on their case flows. When interest rates were high, insurers wrote as much business as possible so that they could benefit from investment income; when rates fell, insurers lost on investments. To reduce those losses, the insurance industry raised rates for all liability insurance consumers and dropped certain higher risk customers.

It's time to end this quest to punish victims for the excess of the insurance industry. We urge you to focus your attention in this last session of the 101st Congress on insurance reform, and defeat all measures that would only serve to deprive victims of recoveries.

Sincerely,

PAM GILBERT,
Legislative Director,
Public Citizen's
Congress Watch.
LINDA A. LIPSEN,
Legislative Counsel,
Consumers Union.

Mr. KENNEDY. Second, Mr. President, I wish to point out that Independent Sector, which is one of the largest umbrella organizations for the voluntary agencies, has commented to us, along with United Way, another one of the very important and largest agencies that is in support of volun-

tism. United Way said that if this was a freestanding measure they would be inclined to support it, but not in this context where it would be circumventing the whole procedure of having this matter studied by the Judiciary Committee. The Red Cross has indicated a similar position.

In addition, Mr. President, the fact is that every major consumer group is opposed to it. Many of the most important and significant and well-known voluntary agencies do not find that this is a particular issue of undue concern to them.

I do not believe that the case has been made about the proliferation of different suits against voluntary organizations and volunteers that have taken place in recent time. The case just has not been made.

We have asked the various foundations and organizations for material to sustain it, and they have not indicated that this issue is a problem to them. To the contrary, they believe that the actions which have been taken by the States have addressed their principal concerns.

We will be following this issue closely in committee, as both the Senator from Alabama and the Senator from Arizona have stated. It seems to me that this is not the time to effectively preempt all 50 States that have addressed this issue in one way or the other over recent years.

We ought to permit this legislation to move forward to provide an opportunity to study this concept in the Judiciary Committee. Both the chairman of the Judiciary Committee and the chairman of the Courts Subcommittee have indicated they would be willing to address it and, if it has merit, to consider it as a freestanding measure.

Mr. PACKWOOD. Mr. President, I rise today in opposition to Senator McConnell's amendment which would abolish the joint and several liability doctrine for volunteer nonprofit, tax-exempt organizations. The amendment also would limit the liability of volunteers who injure someone in the course of their duties unless there is willful and wanton misconduct by the volunteer. Finally, it would require attorneys in any civil action involving nonprofit corporations to inform cli-

ents of the option of alternative dispute resolution.

The proponents of this amendment say that it will advance the cause of voluntarism in America by protecting those public-spirited people who give of their time and themselves to provide needed services in communities. Let me be very clear that I support voluntarism to the hilt. In my home State of Oregon, volunteers provide every conceivable kind of needed service from providing hands-on care for hospitalized infants to remodeling shelters for the homeless. If Oregon or the Federal Government had to pay for those thousands of hours of labor, many of the services simply could not be provided. Truly, community volunteers in this country are a national treasure and Congress should indeed do everything in its power to recognize and encourage their efforts.

What I question is not the concern of Senator McConnell and my other colleagues for the health of the volunteer movement. I question whether it is appropriate to reform tort law in this country in a very drastic way by means of an amendment to the National and Community Service Act. As my colleague Senator KENNEDY has pointed out, no evidence was introduced in the committee hearings on the underlying bill by any nonprofit organization that fear of liability has kept citizens from volunteering for community service.

Senator McConnell is careful not to use the words "tort reform." He emphasizes that this amendment would not limit punitive damages or attorney fees, or require fault as an element of a tort. Well, my esteemed colleagues, tort reform is exactly what this legislation is. The abolition of the joint and several liability doctrine for nonprofit organizations is a major change, and we would be imposing this change at the Federal level on each one of our States. Joint and several liability is not a newfangled notion. It developed from the common law. Simply put, it allows a plaintiff who proves an injury by more than one defendant to recover from each defendant separately or all of them together, at his option. Some States have abolished joint and

several liability; others have chosen to keep it. I personally oppose limiting the number of theories under which an injured party may recover. However, I am not here today to argue the merits of joint and several liability. My point is that in the area of torts, States should and must have the option of determining what theories of recovery and remedies are available in their jurisdictions. What is workable and acceptable in one State may not be in another.

I am also troubled by the standard this amendment would set for recovery against a volunteer who injures someone while performing his or her duties. The volunteer would have to be grossly negligent by the terms of this amendment. That means the plaintiff would have to prove that the volunteer acted intentionally and in reckless disregard of consequences. Any lawyer will tell you that this is a very difficult standard and would pretty much eliminate recovery for accidental injuries caused by volunteers.

Some of the rhetoric in favor of this amendment has suggested that Americans have become very litigious and that failure to enact this amendment will place well-meaning volunteers in danger of losing everything in a lawsuit at the hands of a greedy beneficiary of the volunteer's services. Although anecdotal examples have been placed on the record, what is lacking is any hard evidence that this is a national problem. As is usual with tort reform rhetoric, today's discussion has been long on worst case scenarios and short on statistical proof.

I would like to address the alternative dispute resolution section of Senator McConnell's amendment. It requires that attorneys in civil actions involving nonprofit corporations inform clients of alternatives to civil litigation. Now I'm not against alternative dispute resolution and I think it can be very beneficial in appropriate cases, but you have to have a system set up to handle it. In Oregon we have mandatory mediation in domestic relations cases. I understand it is working fairly well. However, it was put into operation after years of planning and coordination between the court system and the State bar. If this amendment were to pass, Oregon and every other State would suddenly be expected to provide a forum for alternative dispute resolution for tort cases. We in Congress may think that is a good idea, but again we would be imposing something on the States that may or may not make sense for them.

Mr. President, I oppose this amendment in the strongest possible terms, and I will vote against it.

Mr. HEFLIN. Mr. President, in a sort of closing statement—and I intend to make a motion to table—let me say that this amendment takes away long established common law rights. Any student of the law who has studied the development of the common law realizes that it came from England to the

United States and has been developed over centuries.

This is really the first effort to bring about Federal preemption and take it away from the States in the field of injured rights and tort law. Many business people do not support this movement.

I remember when I came to the Senate in 1979, there was great fear on the part of business people that they were going to establish a Federal workmen's compensation law. If you get into the field of tort liability and into the field of injured rights by Federal preemption, you open a Pandora's box. And just consider the various consequences from a business viewpoint.

So I mention that to those people who may think that some business organizations are supporting this effort.

I made the argument that the breadth of this joint and several liability section was so sweeping that it had many consequences, such because certain organizations may not be found liable for damages attributable to a pro rata share, fault, or responsibility of another person, and this implication touches the area of master-servant, and principal-agent.

The only reply that I heard was that this section did not apply because those at issue are volunteers and therefore a master-servant relationship did not exist.

But what we are pointing out is that section 1, as Senator KENNEDY pointed out, has nothing to do with volunteers. It is applicable to 501(c) tax-exempt organizations. So no one has given a satisfactory answer pertaining to that question.

There are a number of Senators who are nonlawyers. They probably at this time are scratching their heads and saying: What is joint and several liability? Or what is wantonness; what is wanton conduct? What is gross negligence? What is negligence? All of those are various issues that they may have heard one time or another.

So I say to those nonlawyers, if you do not know what it is and you do not understand it, then support my position that this amendment demands a hearing and let's invite some experts to look at the amendment to determine how far-sweeping it is, whether there are sleepers in it that are designed to take care of a particular lawsuit or whether there are other aspects of this.

So to the nonlawyers, hearings are designed for your protection. Let us exercise that protection.

I, therefore, move to table this amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama [Mr. HEFLIN] to table the amendment of

the Senator from Kentucky [Mr. McConnell].

The yeas and nays have been ordered, and the clerk will call the roll. Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. Matsunaga] and the Senator from New York [Mr. Moynihan] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. Wilson] is necessarily absent.

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

The result was announced, yeas 65, nays 32, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—65

Adams	Ford	Nunn
Baucus	Fowler	Packwood
Bentsen	Glenn	Pell
Biden	Gore	Pryor
Bingaman	Graham	Reid
Bradley	Harkin	Riegle
Breaux	Hefflin	Robb
Bryan	Hollings	Rockefeller
Bumpers	Inouye	Roth
Burdick	Jeffords	Rudman
Byrd	Johnston	Sanford
Chafee	Kennedy	Sarbanes
Cochran	Kerry	Sasser
Cohen	Kerry	Shelby
Conrad	Kohl	Simon
Cranston	Lautenberg	Simpson
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dixon	Lieberman	Thurmond
Dodd	Metzenbaum	Warner
Durenberger	Mikulski	Wirth
Exon	Mitchell	

NAYS—32

Armstrong	Gorton	Lugar
Bond	Gramm	Mack
Boren	Grassley	McCaill
Boeschwitz	Hatch	McClure
Burns	Hatfield	McConnell
Coats	Helms	Murkowski
D'Amato	Helms	Nickles
Danforth	Humphrey	Pressler
Dole	Kassebaum	Symms
Domenici	Kasten	Wallop
Garn	Lott	

NOT VOTING—3

So the motion to lay on the table amendment No. 1269 was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, if there are other amendments, I hope that the Members will get them to me. I understand now we are down to probably three or four additional amendments. We have tried to work them out. We have made good progress. We have a considerable Senate Calendar and the leader wants us to move forward expeditiously, so we are going to try to follow his request. We understand that the Senator from Texas might have an amendment.

AMENDMENT NO. 1270

(Purpose: To express the sense of the Senate regarding the use of the so-called "peace dividend")

Mr. GRAMM. Mr. President, I send an amendment to the desk for myself,

Mr. HELMS, Mr. GORTON, Mr. LOTT, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. COATS, Mr. KASTEN, Mr. MACK, Mr. MCCAIN, Mr. SYMMS, and Mr. WALLOP and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. HELMS, Mr. GORTON, Mr. LOTT, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. COATS, Mr. KASTEN, Mr. MACK, Mr. MCCAIN, Mr. SYMMS, and Mr. WALLOP, proposes an amendment numbered 1270.

At the appropriate place in the bill, insert the following:

SEC. . POLICY REGARDING "PEACE DIVIDEND".

(a) FINDINGS.—The Congress finds that—

(1) in recent months dramatic movements toward greater political and economic freedom have occurred in Eastern Europe and the Soviet Union;

(2) these democratic reforms may permit the preservation of our Nation's security at a cost less than current budget projections;

(3) the changes in Eastern Europe and the Soviet Union are a direct result of the American taxpayer's willingness and determination to pay the price for the advancement of freedom throughout the world;

(4) the changes in Eastern Europe and the Soviet Union are also a direct result of the total inability of socialist economies to compete with free-market economies;

(5) the family has been the keystone of the ability of Western democracies to promote growth and opportunity; and

(6) the recent democratic reforms in Eastern Europe and the Soviet Union have again demonstrated the need to redirect resources from government to the family to meet effectively individual needs of health, education, training, and nutrition.

(b) POLICY.—It is the sense of the Senate that—

(1) any savings resulting from lower defense expenditures below the level required for balanced fiscal restraint to meet the Gramm-Rudman-Hollings deficit targets and to achieve a balanced budget should be returned to America's taxpayers;

(2) only by returning defense savings to American families to invest in their futures and, thus, America's future can the United States assure that the "peace dividend" will be wisely invested; and

(3) savings from the so-called "peace dividend" should be returned to the American taxpayer in the form of measures such as a refundable child care tax deduction, repeal of the Social Security earnings test, an increase in the personal exemption, expansion of a permanent research and development tax credit, a long-term capital gains tax cut, further lowering of marginal tax rates, and other savings and investment incentives.

AMENDMENT NO. 1271 TO AMENDMENT NO. 1270

(Purpose: To state the sense of the Senate on the uses of the peace dividend)

Mr. KENNEDY. Mr. President, on behalf of Senator SASSER, myself, and others, I send to the desk an amendment in the second degree and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for Mr. SASSER (for himself, and Mr. KOHL), proposes an amendment numbered 1271 to amendment 1270:

Strike all after the word "SEC. 17." in the pending amendment and insert the following:

POLICY REGARDING "PEACE DIVIDEND".

(a) FINDINGS.—The Senate finds that—

(1) in recent months, dramatic movements toward greater political and economic freedom have occurred in Eastern Europe and the Soviet Union; and

(2) these democratic reforms will permit the preservation of our Nation's security at a cost less than current budget levels.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that funds saved as a result of reductions in military expenditures shall be used for—

(1) balancing the budget, without resorting to use of the Social Security surpluses, in order to stop the ongoing "thievery" and "embezzlement" from the Social Security Trust Funds;

(2) urgent national priorities, including investing in America's future, anti-drug and anti-crime efforts, education, health care, the environment, rebuilding the infrastructure, assisting emerging democracies, and other critical needs;

(3) tax reductions for working men and women.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, as we have all looked at what is happening in Eastern Europe and as we have assessed its impact on us, naturally our primary attention has been on the fact that the events in Eastern Europe and the Soviet Union represent dramatic changes that will make for a more secure and peaceful world, and the impact of that obviously is going to be felt by every man, woman, and child in the world. However, other than in caucus meetings of the two parties that control the House and Senate, there has not been any real discussion about the impact of the collapse of the Soviet empire on defense spending and in turn on the budget of the American Government and on the relative priority usage of resources in the American economy.

Mr. President, to this point there has been only one real proposal as to what to do with the peace dividend, and that proposal has been to spend it. The White House has taken the view that there is not a peace dividend; that it is too early to talk about a peace dividend; that we do not want to declare a dividend before the money is in the bank. They clearly have concern that if a fever pitched debate should occur over the so-called peace dividend, there will be a natural incentive to cut defense beyond the bounds that would be dictated by reason and by the remaining threat, and that this would undercut our ability to negotiate conventional and nuclear arms reductions with the Soviet Union.

Mr. President, I am in agreement with the White House that it is too early to declare a peace dividend based on Soviet words; that to this point while we are very encouraged and I believe will be successful in our negotiations, these words are not matched by Soviet deeds.

I believe it is not too early to begin to debate in earnest as to what is

going to be done with the resources that will be freed as a result of the dramatic changes that are occurring in Eastern Europe and the Soviet Union. In fact, Mr. President, I do not believe it is too dramatic to say that the No. 1 issue in the 1990's, if things continue to move in the current direction in Eastern Europe and the Soviet Union, will be what to do with the peace dividend.

As we have seen from a substitute that has been offered here today, this is not a normal debate concerning a sense-of-the-Senate resolution. I offered this one today because I believe it is imperative for the American people to hear that there is an alternative in using the peace dividend other than having the Federal Government spend it.

I would like to begin by talking about opportunities that have existed in the past which have been taken and have been used productively and those which have not. I will start by talking about the post-World War I, post-World War II period. The periods after World War I and World War II basically were periods whereby we re-ordered priorities, we reduced the scope of Federal expenditures, and in the process we returned to the American worker and the American taxpayer the resources we had taken to fight the war. For example, in 1917, 1 percent of GNP was going into defense. That rose to a peak of 16.1 percent in 1919, but by 1926 it was back down to 0.6 percent. The Federal Government as a percentage of GNP was 3.1 percent in 1917; it rose to a peak of 22 percent in 1919, but by 1926 it was down to 2.9 percent.

During the war, we called on the taxpayer to pay the cost of defending freedom and supporting democracy around the world, making the world safe for democracy. They responded, and when the war was over, we gave them back their resources. They invested their resources, Mr. President, in their own futures, and in doing so they invested in the future of America.

Mr. President, exactly the same pattern occurred in World War II. Defense as a percentage of GNP at the beginning of the war was 5.7 percent; it rose to a peak of 39.1 percent, but by 1950 it had fallen back to 5 percent. Government as a percentage of GNP started out at 10 percent; it rose to a peak of 45.2 percent, but by 1948 it was back down to 12 percent of GNP, and exactly in the same pattern the American worker and the American family were called upon to shoulder the burden of defending the free world, of winning World War II.

But when the war was over, the resources went back to the working families of America. Mr. President, the pattern in the Korean conflict was similar because the end of the struggle on the Chosen Peninsula with an unstable trust not only did end the cold

war, but it really started the cold war. The level of defense never went back to the level it existed prior to the Korean conflict and the size of government rose at the peak of the war effort, fell back, but ended up falling back based on the lack of decline in the size of defense spending.

Mr. President, when we go to the Vietnam conflict, we see a pattern that is dramatically different. I would like to focus most of my attention today in setting up this debate on our experience post-Vietnam.

Mr. President, I think there are few here today in talking about the potential size of the peace dividend who would argue that the dramatic changes we see in Eastern Europe and the Soviet Union are likely to have a smaller impact on defense spending than the changes that occurred at the end of the Vietnam war.

It is within that context, talking about the size of the so-called peace dividend at the end of the Vietnam war, the fact that the peace dividend was squandered by government is the focal point of the sense-of-the-Senate resolution that I have offered today.

Mr. President, when the Vietnam war started, we followed exactly the same pattern that we had followed in our previous conflicts in the 20th century. Defense spending rose, Government as a percentage of GNP rose, and taxes rose as we provided the resources for the war effort. But where the unique break with past American experience ended was when the war was over.

I have put together a table here because pictures are sometimes more powerful than words, and I want to go through this picture to give people an idea of the magnitude of the peace dividend post-Vietnam, and the magnitude of the squandering of the birthright of the working men and women of America that made the decade of the 1970's the lost decade of the 20th century for working Americans.

The first point I would like to make is that if you begin in 1970, and you go to 1977, you find that real defense spending fell from 1970 to 1977 on a cumulative basis—that is, if you add up the reduction in real defense spending and you adjust it for inflation—real defense spending by 1977 cumulatively from 1970 was \$380 billion less than it would have been had we continued to spend at the real 1970 level.

If one wanted to try to measure what the post-Vietnam war peace dividend was and you looked at what we were spending in 1970, and then what we spent each year through 1977, in essence, over that 7-year period the peace dividend was \$380 billion. That is in real 1982 dollars. By 1977, we were spending \$71 billion less on defense in real 1982 dollars than we spent in 1970.

Mr. President, you would think that dramatic decline in real defense spending would free up resources, that those resources would lower the defi-

cit, and that those resources might have gone back to the long-suffering American taxpayer. That was the pattern at the end of World War I, it was the pattern at the end of World War II, and it was the pattern at the end of the Korean conflict. But if you assume that happened, you were absolutely wrong because what happened was as defense spending fell off, nondefense spending skyrocketed. Total spending rose, and the Federal deficit went up like a rocket, as did tax collections.

Mr. President, what happened between 1970 and 1977 is a peace dividend of \$380 billion was spent dollar for dollar on new domestic spending programs. The deficit went up, not down. In fact, the deficit during this period rose very substantially, and also during this period Federal taxes rose.

So not only did the Federal Government spend the entire \$380 billion of peace dividend, they spent more; the deficit went up, and taxes went up.

Mr. President, my point here is twofold: No. 1, at the end of the Vietnam conflict, we did something that we had not done before in the 20th century in America. That is, when a conflict ended, instead of giving the money back to the working men and women of America, instead of giving the money back to the working families, Government kept the money and they spent every single dollar of it.

Mr. President, what happened to the index of the well-being of the people of America? I think it is interesting, and I do not think it is an accident. It is not the major point of my amendment. But it is relevant that in January of 1981 the average American worker after taxes, after inflation, was worse off than that worker was in 1970. The decade of the 1970's was a decade of lagging growth, falling productivity, declining position of America's world leadership in which the working men and women of America did not benefit from that economic growth which did occur because every penny of the economic growth that occurred was absorbed by Government.

Mr. President, what happened in America in the 1970's is what is happening in Eastern Europe; that is, government does not solve problems, and when you take resources away from working people and give it to the government, you make people poorer.

Mr. President, the purpose of this sense-of-the-Senate resolution is to recognize that beginning this year there is going to be a fundamental debate. Make no doubt about it. There are two distinct views as to what should be done with the peace dividend. One view is that it should be spent on Government. And the Halls of this great body are full of those planning new programs and new expenditures.

But, Mr. President, there is an alternative. And the alternative is to take the amount of the peace dividend that is necessary as part of a balanced re-

sponse to our requirement for fiscal responsibility to meet the Gramm-Rudman targets with part of the savings coming from defense growth limitations and part coming from the limitations on the growth of nondefense, but beyond that level of defense restraint to return the peace dividend to the long-suffering American taxpayer.

Mr. President, I do not believe in this year the peace dividend will be large. My guess is it is going to be larger than that proposed by the President. But I do not believe in this year with the tight Gramm-Rudman constraint we face on the deficit that this is the time to be declaring a peace dividend. Also let me say if the lion and the lamb are about to lie down together, I want to be sure that we are the lion. The world will be a lot safer if that is the case.

But I want to put this body on notice. And the notice is that beginning next year there are going to be alternatives to spending money and those alternatives are going to start with the alternative of lowering taxes on working Americans, alternatives such as the alternative to have a child care tax credit so we do not have to have a Federal child care program.

Mr. President, if Federal child care really worked, we would not have knocked down the Berlin Wall to get into Eastern Europe. They would not have knocked it down to get into the west.

I propose that next year we begin to debate about eliminating the Social Security earnings test so that our senior citizens can earn their Social Security and continue to work. Next year, we need to begin the debate about increasing the personal exemptions on the income tax. We need to expand R&D the tax credit.

We need to have a long-term reduction in capital gains tax rates, hopefully adopted this year, but fully in effect next year. Finally, we need to look at lowering marginal tax rates and other savings and investment incentives.

Mr. President, I think it is important that we note that the fundamental issue here is what are we going to do with the peace dividend beyond the level required to balance the budget? Nobody here is proposing that we forget about the Gramm-Rudman targets. Obviously, I am not proposing that we forget it. But the next point I wish to make before we launch into this debate over the two resolutions before us is where we are in terms of meeting the Gramm-Rudman targets.

Mr. President, it is my opinion that the full impact of the peace dividend will probably be felt in fiscal year 1994 or 1995. By that point, under existing law, we would have been required to balance the unified balance deficit, and hopefully we would have moved on to take Social Security off budget, set up a freestanding trust fund, and balance the budget without counting the Social Security trust fund, so that

we could have a legitimate trust fund, not just to pay benefits to our parents, but to our children, too.

I want my colleagues to look at this next chart, because this next chart shows us basically where we are today in terms of receipts coming from the Federal Government, in terms of expenditures to the Federal Government; and basically, if we take the average of CBO and OMB data on economic growth, what this first chart shows is that this year we can meet the Gramm-Rudman targets, if we can limit the total level of Federal spending to about 3 percent above the level we spent last year.

I am sure at some point somebody is going to jump up and talk about cuts in spending to meet deficit reduction targets. In case they do, you need to remember that government uses a different language other than official English. Official English says "cut" means spend less than you used to spend, but here in the Senate and the House, "cut" means spend less than you would have spent. So if you would have spent 8 percent more and you are going to spend 3 percent more, only in government is that called a 5-percent cut.

My point is, if you start here in fiscal year 1991 and you go forward, you basically find that in order to meet the Gramm-Rudman targets, we have to limit the growth of Federal spending to between 2 and 5 percent a year, if the economy remains relatively healthy, between the CBO and OMB projections. Now, beginning in 1994, if we make the decision to take Social Security off budget—which I support—in fiscal year 1993, when we can begin to run a surplus, if we do that, we still can have spending growing almost by 5 percent in 1994 and still meet the Gramm-Rudman targets without counting Social Security.

So the debate, Mr. President, is a debate about what are you going to do with the defense savings beyond the level of balanced fiscal restraint necessary in order to meet the Gramm-Rudman targets and balance the budget, first, in a unified budget and, second, without counting Social Security.

Mr. President, there are going to be those who will say what we need to do is simply apply the peace dividend to deficit reduction. Well, if we are going to do that, what we need to do is change the Gramm-Rudman targets and make those targets more demanding; because if we do not do that, let us say, for example, that in 1993, that we were spending \$50 to \$60 billion less on defense than we would have been spending had things not changed in Eastern Europe, to simply apply that to the deficit would mean allowing nondefense discretionary to grow by over 10 percent.

Mr. President, that is not the kind of balanced fiscal restraint that I think we are looking for. Also, I think we have to be mindful of the fact that

that is exactly what produced the decade of the 1970's when, in fact, the \$380 billion that were saved over a 7-year period from the end of the Vietnam war was absorbed in government spending, and then the deficit went up and then taxes went up.

So, Mr. President, the real issue here is this: We are going to make a decision over the next 4 years that is going to fundamentally effect the future of America. If we take this peace dividend in the range of \$50 to \$70 billion by the mid-1990's, and we let government spend it, we are going to be the only nation on Earth that is moving toward more government and not less.

When we hear a proposal on the floor of the House or the Senate of the United States of America that we take defense savings and spend those savings on government, we are putting ourselves in a very select group, because we are the only people on Earth—not in Eastern Europe, not in the Soviet Union itself, is there any organized, respected body of thought that believes that the answer is more government. Only in the United States of America are we hearing an argument that the fruits of the success of freedom, in reducing the necessity that we outlay from the Treasury to keep Ivan back from the gate and to keep the world free, should go not to the people who won the cold war, the long-suffering American taxpayer, but that that money should go to Government.

If we make that decision, if the result of the end of the cold war under the best case scenario resulted in Government getting bigger and more powerful in the United States of America, it would be the ultimate paradox, because when the rest of the world is moving to affirm the sovereignty of the individual, we would be moving to enthrone government with more power and more resources. Mr. President, that would be a great tragedy indeed.

So I wanted to begin the debate today, not to end the debate today. It may be—and I have not read the alternative which has been offered—that that alternative is acceptable, that it is a clever ploy that will get a partisan division. But I want to assure my colleagues that as long as I am in this body, we are going to vote every single day starting next year when the alternative is to increase spending on government and follow the dead-end path that every organized body of thought on Earth has rejected, except the body of thought in the United States of America, that sees government as the answer to every problem and the solution to every ill.

People are going to have an opportunity to vote on whether we want these programs or whether we want to raise the standard deduction, whether we want these programs, or whether we want to eliminate the earnings test under Social Security, whether we want these programs, or whether we

want to activate the enterprise zone bills.

What a great paradox it is, Mr. President, that we are trying to use free enterprise to build Eastern Europe; yet, we will not take the fruits of our success and use it through the enterprise zone bill to rebuild the inner cities of our own Nation. That is what this debate is about today.

Today is not the end of the debate, but the beginning. I rejoice in it, that it is coming, and it is going to have a profound impact on the future of America, and I think people understand that. That is why I am happy that, finally, we are beginning the debate.

I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I am delighted to hear our colleagues on the other side of the aisle start to talk about a peace dividend and address the question of creating a peace dividend out of savings that will come from cutting back on defense spending. There seems to be universal agreement now all the way around that defense spending is indeed heading down.

But there is going to be, I think, less agreement on the size of that peace dividend. There has been a lot of confusion surrounding the whole question of a peace dividend and the confusion began early when the Department of Defense and the Secretary of Defense, Mr. Cheney, said that they were considering \$180 billion in cuts in the defense budget.

Upon closer examination, we find that that \$180 billion cut in defense spending actually comes over 5 years, and when we peel that all the way back we find that this \$180 billion cut over 5 years is a cut from a sharply increasing defense budget proposal. And when we examine it closer, we find that at the end of the day, at the end of the 5-year period, under the proposal advanced by Secretary Cheney and the administration, we are actually spending \$20 billion more for defense than we did at the beginning of this so-called cut in defense spending.

Now, I hope that as this debate progresses we can get assistance from all of our colleagues, including my distinguished friend from Texas, assistance to carve out a peace dividend.

But I would urge my colleagues that before we start indicating what is to be done with this peace dividend, before we start creating the desire for a tax cut, or creating the desire for anything else, we first address the issue: Is there going to be a peace dividend, and if so, how large will it be?

I well remember back in 1981 when we got into the debate on the tax cut at that particular time. My distinguished friend from Texas was one of the leaders in that debate, and the problem with that tax cut, among others, was that we put the checks in the mail to the taxpayers before we

found the money for all those magic asterisks that were swimming around in the so-called Gramm-Latta budget.

I was hoping that this time we would actually find the money before we pass it out.

An interesting document, issued by the Office of Management and Budget, the Office of Management and Budget of Ronald Reagan, indicates that as of January 19, 1989, the tax cut of 1981, the so-called Gramm-Latta tax cut, the Economic Recovery Act of 1981, as it is so euphemistically labeled, deprived the Federal Government and its Treasury of \$1.441 trillion as of the end of the fiscal year 1989.

That, Mr. President, represents the cumulative deficit of our Government in that period of time.

So before we go breaking the Treasury again, I want to determine the actual size of this peace dividend and I want to have it in hand.

The national defense budget outlays in 1990 amounted to \$298.3 billion. There will be a lot of eloquent speeches made about how we ought to use plain English in describing these outlay numbers. Let us not use this Washington jargon of factoring in inflation into the so-called baseline.

Well, if we use that actual plain English approach, we find that the administration this year is increasing defense spending somewhere in the neighborhood of about \$3 billion above the defense spending for fiscal year 1990.

So in plain English, the question becomes where is the peace dividend?

On the issue of tax cuts, we are all for cutting taxes. I am certainly for cutting them. But given the recent past, we have to ask tax cuts for whom? Just recently, the President and his budget director dismissed out of hand a tax cut for working American men and working American women.

When they heard of a tax cut proposed by the Senator from New York, our distinguished colleague, Mr. MOYNIHAN, which would have reduced the oppressive burden of the payroll taxes that marched steadily upward during the decade of the 1980's, the administration immediately turned thumbs down.

This President and this administration seems to think that a tax cut for middle-income Americans would be just plain disastrous for the American economy. But on the other hand, the administration argues that a cut in the capital gains tax would simply do wonders for the economy.

I am left in a quandary. Whose economy are we really concerned about here?

The Joint Tax Committee estimates that two-thirds of the Bush capital gains tax cut will be showered on people who earn more than \$200,000 a year. These are the same people who see their incomes grow by 45 percent during the 1980's.

These individuals, Mr. President, were the beneficiaries of this so-called Economic Recovery Act that was passed in 1981 that robbed the Federal Treasury of \$1.4 trillion, the same funds that future generations are either going to have to pay back or compromise their standard of living as a result of the squandering that took place in the decade of the 1980's.

Oh, sure, there is going to be plenty of rhetoric: Were it not for that tax cut, we would not have enjoyed all of this so-called unparalleled prosperity that we enjoyed over the past decade. Who enjoyed that prosperity? The prosperity was enjoyed by a very small minority at the top. If you look underneath and see the real figures, you see that the real income of the average American working person has not increased over the past 13 years one whit.

If we have enjoyed better economic times, and I debate that point, it is not a result of this so-called tax cut for the wealthy. It comes about as the result of the breakup of OPEC, among other things. It comes about as a result of many other factors in the economy.

When we talk about middle-income and poor Americans, it seems that we cannot consider taxing them less. These are the people who have been burdened with higher tax rates while faced with stagnant or falling real incomes in the decade of the 1980's.

I am wondering why tax cuts for the wealthy are just so wonderful and why cutting taxes for working men and working women are not.

I hope that all of my colleagues and perhaps even the Senator from Texas, my distinguished friend, might speak to the President of the United States and get him on board tax reductions for working Americans. Perhaps he might even look favorably on the MOYNIHAN proposal, or have an offshoot of it.

Senator MOYNIHAN, our distinguished colleague from New York, has helped point out that the regressive shift in the Tax Code during the 1980's was not kind to working Americans. Senator MOYNIHAN has highlighted the embezzlement that has gone on and is going on today in the Social Security trust fund, embezzlement that we seek to mask by another device called Gramm-Rudman. As long as the operating portion of this budget remains in deficit, this administration will be stealing from the Social Security trust fund, robbing Peter to pay Paul, as we stand here talking about a tax cut.

No matter what arcane accounting procedures are introduced, until the day comes when operating revenues exceed operating expenditures, this embezzlement will continue. And the Congressional Budget Office tells us that the day is a long way off before operating receipts and revenues exceed operating expenditures.

Any proposal to cut taxes at this point would only push that day farther into the future.

At a time when the American people at the grassroots are waking up to the fact that they are being charged with a regressive payroll tax, that these funds are allegedly being set aside for their old age and a rainy day, at a time when they are waking up to the fact that these funds are being used improperly to finance the operating deficit of this Government, I think this is a poor time to be discussing the whole question of tax cuts.

If there is a peace dividend, a lot of other people believe that the peace dividend might be used to offset this embezzlement of the Social Security fund. The administration's answer to that has been to propose more tax cuts for wealthy and more Rube Goldberg accounting schemes, all to prevent the embezzlement from the trust fund from being brought to an end.

But I do not think these gimmicks wash any more. I think the day of reckoning is very near. No accounting games or gimmicks can hide the fact that as long as this operating budget is in deficit, those Social Security trust funds are going to be used to pay for the rest of the operation of this Government.

So I, too, am looking forward to an interesting debate later this year. I look forward to speaking at length about the ongoing embezzlement of Social Security that we have continued to perpetrate here.

I listened with interest to my distinguished friend speak of the increase in Government spending during the decade of the 1970's. But what he did not tell you, Mr. President, is that two-thirds of this increase is accounted for by spending in Social Security and by spending in Medicare. And most of this spending, in fact, almost all of it, is financed by taxes brought in by the regressive payroll tax.

So my view comes down to this: Yes, we need to carve out a peace dividend. It is high time that we quit squandering the Nation's resources on overly sophisticated weapons systems for which I can foresee no need in the immediate future or even in the far future. We need to take this peace dividend and we need to apply these funds wisely.

First and foremost, these funds need to be applied to the operating deficit that is soaking up the Social Security trust funds today as I stand here speaking. Then, if there is going to be a tax cut, it needs to be carefully crafted and carefully targeted to help the working men and women of this country, not a tax cut similar to the one that passed in 1981 that simply lined the pockets of the wealthy in this country and caused the rush of sales of Mercedes Bens automobiles and Cadillacs.

We need a tax that helps working men and women, and not one such as

the capital gains tax proposal advanced by the President. We need funds to deal with the problems of drugs. We need funds to deal with the problems of crime here at home. We need funds to deal with the problems of education. We need funds to deal with the problems of our environment.

Mr. President, the amendment that I have offered today, in conjunction with my distinguished colleague from Massachusetts, calls for this peace dividend to be judiciously applied: First, to reduce the budget deficit to stop the hemorrhage, thereby to stop the thievery from the Social Security trust funds; second, to put this Government on a sound financial basis so that we can once more be the master of our own fate, our own economic destiny, and not have to depend on the Japanese, as we did just a few weeks ago, to come in and buy the security instruments of this Government so that we can finance our own deficit. As I stand here today, the Japanese are buying about 25 to 40 percent of the indebtedness sold by this Government by which we finance our budget deficit. A couple of weeks ago, the Japanese sat on the sidelines. They hesitated, and we had to raise interest rates a half point before we could attract them into buying. If sustained, that would cost us about \$6 to \$8 billion more in 1991 in Federal outlays. The fastest growing components of the Federal budget today is interest paid on the national debt.

So I say it is premature today to be standing here talking about a tax cut or a peace dividend that is illusory. I think the first thing that we must do is join together so that we can have a peace dividend that is substantial. Once we have that peace dividend in hand, then I think we can allocate the means by which it will be used.

I say, first, it ought to be used to reduce this deficit, to get us operating in the black again. Second, it ought to be used to deal with the long-neglected problems that we have in this country. Last, Mr. President, if there is to be a tax cut, it ought to be one that is carefully crafted, that will give some tax relief to these working Americans who have seen their taxes go up steadily during the decade of the 1980's.

Mr. President, just looking at some figures here, we note that during the 1980's, according to the Congressional Budget office, the effective tax rate on the wealthiest 5 percent in this country dropped by 9.5 percent, whereas, on the poorest 10 percent, their effective tax rates went up 28 percent. So much for the tax relief that we got in the decade of the 1980's as a result of the so-called Economic Recovery Act of 1981. We should be very careful to not repeat that grievous error that we committed in 1981 here in the year 1990 if, indeed, a so-called peace dividend should emerge.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, let me say at the outset that it would

have been my desire that we not have this debate and discussion on this particular measure, the measure that is dealing with voluntary service for communities across this country, but the Senator from Texas is entitled to raise this issue for discussion and debate. I welcome the leadership that is being provided by the chairman of the Budget Committee, Senator SASSER, and I welcome the opportunity to join with him in an alternative for the Senate to consider.

Mr. President, I was somewhat startled to hear from my good friend, the able legislator, the former distinguished professor of economics, and listen to his analysis in his presentation and review some of the material that he provided for us.

First of all, Mr. President, in looking over the material provided by the Senator from Texas, he talks about a post-Vietnam peace dividend and that the war in Vietnam ended in 1970. Well, I am sure that is news to the many hundreds of thousands of Americans who served in Vietnam in 1971, 1972, 1973, 1974. The last helicopters left in 1957. But the Senator from Texas uses 1970 for the basis of his analysis. Could it be that he was using it not because it was the end of the war—although his presentation would suggest that that is the basis of the argument, the post-Vietnam peace dividend. Well, the war went right through 1975. And when you start his kind of analysis, in 1975 to 1977, you have to reach a rather dramatic different conclusion.

Then, the Senator from Texas tells us that the behavior of the official poverty rate between 1983 and 1988 proves something about the virtues of slashing domestic spending and cutting taxes massively. Let me quote him precisely:

Tax cuts plus limiting the growth of Federal spending in the 1980's has proven superior in terms of reduction of misery and poverty.

Mr. President, in 1988 the official measured poverty rate was 13.1 percent. The statistic, when translated, means that over 30 million Americans, over 12 million of them children, are living in poverty. Over a decade earlier, in 1977, the officially measured poverty rate was only 11.3 percent.

Just what it is that has been proven superior is not immediately clear to this Senator. Because using the standard of proof of the Senator from Texas, one would be entitled to the obviously absurd conclusion that the stagflation, inflation, slow growth of 1973 through 1978 was proven superior in terms of reduction of misery and poverty.

We do not make that case and we do not suggest that that is the situation. We just cannot follow that kind of logic. It does not justify the lowering of the poverty rate in the late 1970's, when we had other factors that impacted it. And the figures which the Senator from Texas took, when the poverty rate went up during the

Reagan period and then went down a little, to try to say all those economic policies really were the thing that brought it down—the statistics, I do not believe, justify. And I think the statistical game has no place here in the Senate.

I will just mention a final one, Mr. President. The Senator from Texas suggested that an analysis of the economic data proves that there is a single right answer to the question of how best to employ a peace dividend. Let me give just one example.

In the materials circulated by the Senator from Texas, he notes that the ratio of total Federal spending to GNP declined by approximately 18 points between 1945 and 1946. He suggests that this single measure explains why the domestic economy boomed in the postwar era.

What the Senator's data does not tell us is that something even more striking happened between 1945 and 1946. Domestic spending doubled. It doubled in the forms of commitment in education, health care, and the development of our road system. It just doubled in 1 year.

So, does this prove that the correct path in 1991 is to double domestic spending? Of course not. And no one is suggesting it.

But using the standard of proof advanced by the Senator from Texas, one would be entitled to such a conclusion. And that is, of course, the key point here. There are no simple, infallible, easily proved and always correct answers. We face an historic opportunity to wind down decades of cold war spending and to use the newly freed-up resources to build economic and social strength. We must take that opportunity seriously and not substitute ideology for careful analysis.

Mr. President, I see my friend and cosponsor, the Senator from Maryland, would like to speak. Then I would like to at least put forward a real alternative for the peace dividend for at least the debate and discussion here on the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I modify my pending first-degree amendment, amendment No. 1270, to accept the pending second-degree amendment No. 1271.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

The amendment (No. 1270) was so modified.

Mr. GRAMM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. KENNEDY. 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. McCAIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

The Senator from Arizona is recognized as in morning business.

THE PRESIDENT'S FISCAL YEAR 1991 BUDGET REQUEST FOR INDIAN PROGRAMS

Mr. McCAIN. Mr. President, I rise today to express my dismay and indignation about the lack of adequate funding to assist our most needy citizens, the Indian and native people of this Nation.

Under the leadership of Senator INOUE, the Select Committee on Indian Affairs has been engaged in a careful analysis of the historic trends in Federal funding for Indian programs and services. This study reveals a very disturbing fact: funds for Indian programs and services are declining by any accepted measure.

The eligible Indian service population has nearly doubled in the last 20 years. Although it is very likely that the Congress will appropriate in excess of \$3 billion for Indian programs in fiscal year 1991, in terms of constant 1982 dollars this appropriation is equivalent to only \$1.6 billion. The fact is that Congress is not appropriating and the administration is not requesting sufficient annual funding to keep pace with inflation. When the increase in Indian populations is factored in, which it never is, the funding crisis takes on a new dimension. In general, Indian and native peoples suffer the highest poverty and unemployment rates in the Nation. Yet over the past 15 years Federal funding per capita has increased for all citizens in this Nation except Indians and natives. In fact, the steady decline in funding is such that we are now spending more per capita on everyone else—a condition which has existed and worsened since 1985.

The fiscal year 1991 budget request will continue this trend. The Bureau of Indian Affairs is seeking a net increase over 1990 of less than 1 percent. With projected pay absorptions the BIA budget will actually decline. The IHS claims to be seeking an increase of at least 7 percent, but the net increase is actually closer to 2 percent when pay absorptions and unrealistic assumptions about third-party payments are taken into account. HUD proposes complete elimination of the Indian Housing Program. Funding for the Office of Indian Education and the Administration on Native Americans would basically be stagnant. Inflation will once again result in

an actual decrease in funding for Indian programs and services in fiscal year 1991 if we accept the President's budget request.

This is an intolerable situation. We are effectively compelling our poorest citizens to bear a disproportionate share of the Federal fiscal burden. It is simply not acceptable for the administration to propose to eliminate Indian housing funds when there is a documented need for tens of thousands of new homes. It is simply not acceptable to only request \$15 million for sanitation facilities when there is a documented backlog of \$675 million.

It is simply not acceptable to propose essentially level funding for Indian education programs when student populations and education costs are increasing. These comments serve to highlight only a few points. A careful review of the 1991 budget request for Indian and native programs reveals that virtually every program or service is slated for a real reduction in funding. There is and can be no viable justification for this fact. I hope that the responsible officials in the administration will begin to work with us so we can reverse the downward trend in funding for Indian and native programs and services. I, for one, believe we are legally and morally bound to do no less.

Mr. President, this chart that I have here is a comparison of real annual percent changes in Federal budgets and the Indian budget. You might notice the Department of Education has received an increase in health functions, HUD, et cetera, while Indian education has a serious decrease in BIA education, Indian housing, economic development for Indians, BIA economic developments, Association for Native Americans, American Natives Administration, total Indian programs in BIA as opposed to total Federal budget.

Mr. President, there is another chart I would like to point out here, and that has to do with the overall funding since fiscal year 1975. Projected BIA and overall Indian spending in real dollars, as we can see, is declining.

Mr. President, the reason these graphs are so incredibly onerous, in my view, is that there is no way you can put on the chart the dramatic and dynamic explosion in population of native Americans which exacerbates these numbers rather dramatically. Most statistics indicate that over half the population on Indian reservations today are below the age of 18. These people need these programs; they need help; they need assistance.

Finally, Mr. President, as the vice chairman of the Select Committee on Indian Affairs last year, we held a series of hearings which I believe will prove to be important in addressing some of these issues. The first hearing, the first witness was Mr. Leonard Garmant who likened Congress and the American people's attention to Indian issues with that of the 17-year locust.

Once every 17 years, the locust comes out and makes a lot of noise, we pay a lot of attention to it and then it goes back into the woodwork, the trees, the ground or wherever 17-year locusts disappear to.

The fact is today, Mr. President, America's neediest citizens, America's poorest citizens are receiving the least amount of the Federal dollar. I will be proposing amendments and increases in appropriations throughout the coming year in order to rectify some of these gross inequities, and I look forward to receiving the support of my colleagues in what I think is an effort which is a moral imperative.

Mr. McCAIN. 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. KENNEDY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

NATIONAL AND COMMUNITY SERVICE ACT OF 1989

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on the Gramm underlying amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I send an amendment to the desk. I ask for the regular order.

The PRESIDING OFFICER. Is there debate on the amendment?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

AMENDMENT NO. 1272 TO AMENDMENT NO. 1270, AS MODIFIED

Mr. KENNEDY. 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 clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 1272 to the Gramm amendment No. 1270 as modified.

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

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. . POLICY REGARDING "PEACE DIVIDEND".(a) **FINDINGS.**—The Senate finds that—

(1) in recent months, dramatic movements toward greater political and economic freedom have occurred in Eastern Europe and the Soviet Union; and

(2) these democratic reforms will permit the preservation of our Nation's security at a cost less than current budget levels.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that funds saved as a result of reductions in military expenditures shall be used for—

(1) balancing the budget, without resorting to use of the Social Security surpluses, in order to stop the ongoing "thievery" and "embezzlement" from the Social Security Trust Funds;

(2) urgent national priorities, including investing in America's future, anti-drug and anti-crime efforts, education, head start, health care, the environment, rebuilding the infrastructure, assisting emerging democracies, and other critical needs;

(3) tax reductions for working men and women.

**MOTION TO RECOMMIT WITH INSTRUCTIONS
AMENDMENT NO. 1273**

Mr. GRAMM. Mr. President, I move to recommit the pending bill with instructions to report back in status quo, with the following amendment which I send to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

—The Senator from Texas moves to recommit the bill with instructions to report back in status quo with the following amendment, Amendment Numbered 1273:

At the appropriate place in the bill, insert the following:

SEC. . POLICY REGARDING "PEACE DIVIDEND".(a) **FINDINGS.**—The Congress finds that—

(1) in recent months dramatic movements toward greater political and economic freedom have occurred in Eastern Europe and the Soviet Union;

(2) these democratic reforms may permit the preservation of our Nation's security at a cost less than current budget projections;

(3) the changes in Eastern Europe and the Soviet Union are a direct result of the American taxpayer's willingness and determination to pay the price for the advancement of freedom throughout the world;

(4) the changes in Eastern Europe and the Soviet Union are also a direct result of the total inability of socialist economies to compete with free-market economies;

(5) the family has been the keystone of the ability of Western democracies to promote growth and opportunity; and

(6) the recent democratic reforms in Eastern Europe and the Soviet Union have again demonstrated the need to redirect resources from government to the family to meet effectively individual needs of health, education, training, and nutrition.

(b) **POLICY.**—It is the sense of the Senate that—

(1) any savings resulting from lower defense expenditures below the level required for balanced fiscal restraint to meet the Gramm-Rudman-Hollings deficit targets and to achieve a balanced budget excluding the Social Security Trust Fund should be returned to America's taxpayers;

(2) only by returning defense savings to American families to invest in their futures and, thus, America's future can the United States assure that the "peace dividend" will be wisely invested; and

(3) savings from the so-called "peace dividend" should be returned to the American

taxpayer in the form of measures such as a refundable child care tax deduction, repeal of the Social Security earnings test, an increase in the personal exemption, expansion of a permanent research and development tax credit, a long-term capital gains tax cut, further lowering of marginal tax rates, and other savings and investment incentives.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. 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. MCCAIN. Mr. President, I rise in support of the pending Gramm amendment on the "peace dividend."

Before proceeding, I would like to remind my colleagues that it is well not to be too premature in judging to the size and availability of this so-called peace dividend. We have along way to go to secure the kind of peace we need to obtain a significant dividend. We must sign and implement conventional reductions agreements and START agreements, and see the U.S.S.R. make good on its promises of major unilateral arms reductions. However, I do not think there is any serious reason to doubt that there will be a significant peace dividend.

This dividend may well help us cut taxes, but it is important to note that it will not make a significant reduction in the budget deficit. Defense spending has already dropped to around 5 percent of the GNP and the current budget plans of the Bush administration call for it to drop to 4 percent in fiscal year 1995—the lowest level in 50 years.

Defense spending has not driven the increase in Federal spending, taxes, or the budget deficit that has placed such a burden on the American people. The increases have taken place in civil spending and entitlements—which have risen from less than 50 percent of the Federal budget in the 1950's to more than 60 percent in the late 1980's, to 75 percent in the late 1980's. As a result, Federal spending on domestic and entitlement programs has risen from 7.3 percent of GNP at the end of the Korean war, and 11.5 percent at the end of the Vietnam war, to 17 percent in fiscal year 1990.

Important as the peace dividend may eventually be, our primary goal must be to cut the budget deficit and Federal spending. Nondefense Federal, State, and local programs are consuming an ever increasing percent of our GNP. State and local taxes have compensated for most reductions in Federal taxes, and the total tax burden Government places on the American people is over 30 percent of our GNP, and virtually one-third of all the economic activity in the United States.

We also know that the American people want a strong economy. They know the best way to maintain a strong economy is to have money in their pockets and in their bank accounts—money which they can both save and invest in the future of this country.

We also need to reduce taxes to help deal with the impact of cutting defense spending on the economy.

In a State like mine, Mr. President, we will experience significant defense cuts. We will need sufficient capital to stimulate small and large businesses, and compensate for the unemployment which we are bound to experience when major defense industries experience significant reductions.

More generally, I worry about the perception throughout the world that this Congress keeps trying to hide the deficit rather than reduce it. Using the savings from the peace dividend to pay for more civil spending would just be another example of such "smoke and mirrors." In contrast, restraint on the part of the Congress that reduced total Federal spending would serve us well.

Accordingly, I cannot support Senator GRAMM too strongly in saying when the peace dividend comes, and we can safely begin to spend it, it is the American people who have earned it. It is the American people, through their steadfast adherence to the principles of freedom and democracy, their respect for human rights and, very importantly, their willingness to spend hundreds and hundreds of billions of their tax dollars for defense and freedom throughout the world, that sacrifice should be repaid to them in the form of a tax cut so that they can have those moneys to invest, to save, and to use for their education, for their welfare, and that of their children.

So I want to congratulate my friend from Texas on a very well-thought-out amendment, and one that I think most of the American people will support. I congratulate him on his recognition that larger governments and larger government programs do not necessarily mean that we will have a healthy economy and healthy Americans, but giving the American people more money for investment, for savings, and to make our economy continue to grow is the best thing we can do for all Americans.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MIKULSKI. Thank you, Mr. President. I rise in support of the Kennedy alternative to this discussion on the peace dividend.

I find it very intriguing that the party of the administration has brought up even the concept of the peace dividend because I have seen nothing in the Defense Department

budget that indicates that we are heading towards a peace dividend.

I hope we will. We spend \$157 billion on the defense of Western Europe. If in fact the cold war is over, maybe we could get one ice cube back for the American people and put it to work here in our own country. What would be my idea of one ice cube? Ten percent, which would be approximately \$15 billion. What will we do with it? I would say yes, we apply it to deficit reduction. But at the same time, to then apply a substantial part of that in investing in a America's future.

That \$157 billion that we spent on the defense of Western Europe has been well spent. It has been spent on the preservation of our national security. But, Mr. President, what then is the new call for our national security? How do we maintain our security, particularly in the 21st century? I believe that our political freedom rests on our economic freedom and our economic vitality. In order to do that we have to think of a global economy. We have to think of science. We have to think of technology.

Mr. President, I then want to take the next step to talk about my Subcommittee on Appropriations. I feel very privileged and honored to chair the Subcommittee on Appropriations that I think deals with America's future.

Mr. President, it deals with veterans, housing, the National Space Agency, EPA, and the National Science Foundation, as well as 23 other agencies.

The distinguished Senator from Texas, who offered the original amendment or the first-degree amendment, is on that subcommittee, and he knows how squeezed for revenue we were. Where were we squeezed for revenue? A program like NASA: In order to keep America flying in space we have to have White House meetings—and I must say the White House is very cooperative—on how we can keep the shuttle flying, and how we talk about the space station. Now our Vice President wants to take us to the moon and to Mars at the cost initially this year alone of \$175 million.

Mr. President, there is an old song that says "Fly me to the moon." But right now I only have those high notes to take me there. I have no sustainable revenue source for the NASA program.

Let us take a look at the National Science Foundation. When I finished with my 302(b), working with Senator GARN, my very able ranking minority, all we could put into the National Science Foundation was \$2 billion. Mr. President, in times of the real American need for scientific research and scientific education, that is a rinky-dink amount of money. In the area of science education alone, Mr. President, all we could put into science education was \$191 million. Our whole community college system only had access to \$4 million for reinstrumentation of their laboratories, and this is the institutional framework, the educational

framework that is supposed to educate the kids for the 21st century in technical fields. Mr. President, that was \$4 million.

Then we talked about the laboratory rehabilitation we talked about the laboratory and those schools that are most likely to be the incubators for bachelors, masters, and Ph.D.'s; primarily our small- to medium-sized colleges. The authorizing committee authorized \$100 million for that revitalization of our college laboratories. The most I could squeeze to get into it was \$20 million.

Mr. President, in historic black colleges, this afternoon in some of those schools, the laboratories are of such an age that they constitute health hazards. When we talk about why did our guys fight for this country, why did we continue to fund NATO, so that we could have the freedom to pursue our future. In order to do that, we have to put our money into something. So if there is a peace dividend, let us make sure we reinvest so we keep the peace in terms of our economic prosperity.

Mr. President, there is no tax deduction to do the kinds of things that I am talking about. There is no tax deductions to fund NASA. There is no tax deduction to fund elementary and secondary education in science-education. So I think I make my point.

I really am sympathetic to the middle class who feel besieged, beleaguered and beset. A lot of it is because of local property tax, and local property taxes have increased because we have shifted the burden. We have shifted; we have not alleviated the burden. We have shifted the burden.

Now that middle class feels that general revenue sharing alone—in my own community—has resulted in a diminishment in service and increase in property tax. I am sure it is true in Dallas and Houston as it is in Phoenix, and in any other part of this country, Mr. President.

If we really want to reduce taxes, the Federal Government ought to assume that responsibility which is theirs, and do not leave it to local city councils to foot the bill. And those ordinary people who own homes, Mr. President, if there is a peace dividend, let us make sure we invest in our 21st century some of the results.

Mr. BOSCHWITZ. Mr. President, I agree with what my friend from Maryland said because it is not clear to me either that there is a peace dividend in the offering.

I have not seen the negotiations that have allowed us to really make the kind of cuts in defense that would constitute a peace dividend. On the other hand, some people might say there has already been a peace dividend, because defense has not grown.

While the budget has grown at a rate in excess of inflation in the last few years, defense has grown at a rate a good deal less than inflation. So in a

way there has already been a defense dividend.

One has to ask: Have we made some savings? Has the budget deficit really gone down? With the exception of 1987, when overall Government spending went up by just 1.3 percent, we were able to hold Government increases in spending down. As a matter of fact, the budget deficit came from \$221 to \$150, down by a third. Regrettably, we have not been able to do that 2 years in a row.

That is what the Senator from Texas stands for, what the Senator from Colorado stands for, and what I stand for. We would like to keep spending down for more than a couple of years in row. In a sense, there has been a defense dividend already that all of us can spend. As we look ahead and say that it is likely we are going to have some truthful negotiations, it is not unlikely that our commitments in defense may indeed go down. It is simply too soon to say.

This morning at the Budget Committee one of my colleagues said we are already to receive our mustering-out pay. The cold war is over. That is not clear to me at all. I have seen no evidence that the Russians have reduced their numbers of missiles, reduced their number of people in the armed services, and their number of tanks or anything else.

I certainly have seen some evidence that society struggles with this defense burden. It is not unlikely that there will be some reductions, as it is not unlikely that there will be some future negotiations that will lead to a meaningful peace dividend.

But this bill, Mr. President, is already an effort to spend it. That is why the Senator from Texas and now the Senator from Minnesota wishes to speak out about this bill. This is an effort to spend. And, as a matter of fact, if you look at the report of this bill, on page 72, the estimated outlays as, I understand, have been changed.

The estimated outlays are about \$700 million in a 5-year period, and the estimated budget authority is \$2.406 billion over a 5-year period. I understand that some changes have been made, but I also understand there is a smaller initial outlay and authorization, and we will see that grow in future years.

This amendment expresses our efforts to whack away at the budget deficit in the event there is a peace dividend. This amendment assures our children and grandchildren that debts still larger than the ones that we have before us today will not be imposed on them.

We hope that there will be a peace dividend. It would be good for our children, our grandchildren and the world. Whether or not it is to come is still, I believe, a matter of negotiation in most areas.

As the Senator from Texas has pointed out, many peace dividends are

indeed inured to the benefit of the taxpayers, because taxpayers and citizens of this country have been able to increase and improve their living standards. But he also pointed out that the peace dividend we most recently experienced following the Vietnam conflict was a peace dividend that was consumed entirely by growing Federal programs. Many of these programs were initiated at a time when the Vietnam war was escalating. None of that inured to the benefit of the taxpayer, and indeed it established the deficit at about the level that it was now.

Many people criticize President Reagan for the level of the deficit. Few here in this body point out that the President submits a budget, and thereafter, it is the Congress that passes the budget. The budget, unlike other pieces of legislation here, does not have to be signed. It is not a piece of legislation in the sense that it is subject to a Presidential veto.

After the President submits the budget, the Congress determines what is going to be spent and what the balances are going to be at the end of the year. Yes, the President can veto some legislation, if required, but by and large the budget is in our hands. Perhaps we, and not the President, should share the major part of the blame for the deficit.

Even if the President is to blame, it is interesting to note that the level of the deficit presently is somewhat lower than the deficit when Ronald Reagan became President in 1981, if you compare it as a percentage of gross national profits. Frankly we want a peace dividend and we hope a peace dividend will come. It would be a marvelous thing for all of America.

We understand that not all of it will be used to reduce the deficit. I think that probably is a practical and realistic assessment of what is going to happen. But nevertheless, some or perhaps even most of it, should be applied to the deficit so that people will not have to see their taxes increased, so that the people of the United States will be able to experience better and higher living standards, so that the people of the United States will have a choice to make about how the money is spent and not we here in the Senate or in the House or the Government.

That really is the essence of a free people, that they have control of their lives and of their futures, and that the Government does not have the ability, or has not sought to have the ability to do all things for them.

So I am in total agreement with my friend from Texas. I think this is a good amendment on the right bill. I think that this bill is one of a number of bills that we are going to see here, that in effect are efforts to spend the peace dividend even before it arrives. As the Senator from Maryland has stated, the peace dividend has not yet arrived.

She listed a number of other areas, and I do not disagree with her in those areas. There are many things I would like to spend more money on in the Government, particularly the areas she spoke about: education, research and development.

Yes, we have this compulsion, this mandate that we have to get the budget deficit under control. It is one of the serious undone jobs that we face before us. Therefore, I compliment the Senator from Texas for bringing forward this amendment at this time and for putting it on this bill. This bill is one of a series of steps that all of us are going to experience in an effort to spend the peace dividend even before it arrives.

I yield the floor.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, a lot of times in this body, we vote on things that have sort of hidden meanings. We vote on issues that are in fact proxies for larger issues. We vote on pieces of legislation that give us a chance to sort of hint at our underlying principles and philosophies which guide us. Once in a while we really get to vote on something that clearly says here is how we feel about the country and how we feel about where we ought to go.

The Gramm amendment is such an occasion. It is fairly rare that you get such a direct, broad-gauged issue presented with such clarity and simplicity. This is a very simple matter. If there is a peace dividend—and I have skepticism about that, and I will comment on that briefly. But if we have a peace dividend, if additional funds are released for military spending, we have some option over what happens to those funds.

Some in the Chamber believe that we ought to spend that money by creating or increasing funding for existing programs in domestic spending, many of which are worthy programs. Others think we ought to give it back to the taxpayers or use it to reduce the national debt.

Senator GRAMM says that to the extent there is money available, it ought to go back to the taxpayers. After all, they financed the cold war in the first place and made it possible to win the victories that seem to be on the horizon.

I do not know if he used this expression today, but I have heard him tell about the distinction between those who are pulling the wagon and those who are riding in the wagon and the ones shooting the wheels off the wagon. If he did not use that analogy today, he should have, because this is a clear-cut case.

If we have extra money, do we want to give it back to the people who have made all this possible in the first place? It is their money to start with. Should they be permitted to keep a

greater fraction of it? I am sure none of my colleagues will be surprised to learn that I come down on the side of giving it back to the taxpayers or using the money, to the extent there is a peace dividend, to reduce the national debt.

Will there be a peace dividend? I am agnostic about that. I am sure that there really will be. In fact, with all the discussion about how we are going to save money in defense spending, I have been trying to think, where are we going to make these gigantic savings?

I cannot help recalling that even those who seldom or never vote for a defense measure around here, when it comes to closing down a base in their home constituency, by gosh, they think that is a terrible idea. Even those who, all through the years, when some of us were fighting to build up the armed strength of this country because we thought that was the way to keep peace and win victories without violence, we could not get support from a certain contingent in this body. And yet whenever there was a proposal to close down a camp, post, installation, or even a recruiting office, some of these same people stood up and said: You cannot close that; that is in my District.

That is their right, but knowing human nature, I guess when it comes right down to making some of these savings, it will not be as easy to do as a lot of people think.

It may be that those Senators and Members of the House that represent the great sea ports of this country where there are ships home ported will say, yes, it is time to decommission a bunch of ships and discharge a bunch of sailors and close down naval yards. I will be surprised if that happens. Perhaps I shall be pleasantly surprised.

But I recall, for example, when there was a proposal to close an installation or two in my own home State of Colorado, that every Member of the Colorado congressional delegation, except one, stood up to say that that was just unthinkable, that we could not possibly close anything that would affect our constituents.

I guess that is the same thing that has happened in a lot of States and a lot of areas.

There is a natural desire to continue spending even for things that might seem to be outmoded by world developments. I do not know if there will be a peace dividend. Frankly, I hope there is. To some extent I believe there should be. It appears to me we should not miss the opportunity to put our fiscal house in order if there is a peace dividend. To the extent that we have funds available where we have an option of either spending them to create or fund new programs or give it back to the taxpayers, it seems to me it is time to give the taxpayers a break.

So I congratulate my friend from Texas. I am not sure if I am a cosponsor of this amendment. If I am not, I ask unanimous consent that I be added as a cosponsor.

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

The Senator from Washington.

Mr. GORTON. Mr. President, I wish to add my voice to those which have offered support to the amendment proposed by the distinguished Senator from Texas. I understand we have now resolved the procedural difficulties and will have an opportunity to vote for or against both his amendment and that which the distinguished Senator from Massachusetts offered for Senator SASSER.

I believe, however, that I should begin my remarks by pointing out that the principal peace dividend which the United States has received as a result of its strength and determination is peace itself. To the extent that Members are willing to congratulate this country and themselves for the proposition that the cold war is either completely over, as some claim, or that at the very least we live in a much safer world this year than was the case 1 year ago, that happy set of circumstances is, I believe, due to the fact that the people of the United States have been willing to sacrifice, have been willing to burden themselves with the cost of a national defense system which has made them secure, has secured the balance of the free world and which has provided the kind of beacon which has caused many other nations to select the kind of freedom and opportunity which we represent as against that of our erstwhile rivals.

In fact, one of the most salutary results of this period of time has been the domestic changes in the Soviet Union itself, and while it perhaps has greater difficulties than do any of its former satellites in Eastern Europe, nevertheless, the Soviet people are no different from those of any other country in their desire for freedom and for economic opportunity.

So, we really have already gained an immense peace dividend, the kind of peace dividend for which Presidents as long ago as Harry Truman and Dwight Eisenhower worked, a peace dividend which has been the goal of those who have believed in the message of the United States and in its strength over a period of close to five decades now.

As a consequence of this true peace dividend, there also will be a fiscal dividend as well. Whether we can define it as precisely as did the distinguished Senator from Maryland [Ms. MIKULSKI]—I believe she used the figure \$157 billion—of course, I am not quite certain, but there will be immense savings in expenditures in national defense from those we expected we would have to undertake as recently as a year or 2 ago. Yes, there will be.

The debate, which is essentially being initiated here on the floor of the

U.S. Senate this afternoon, is over how we deal with that fiscal defense dividend, where does that money go, where would it be most constructively utilized.

If the Senator from Texas has offered us any insight in that program, and I believe he has offered several such insights, the most important is his recalling of the history of the last similar peace dividend and a reminder that we should take certain lessons from the way in which that peace dividend was utilized. Wherever or whenever that peace dividend began, and it certainly did begin before the formal termination of the Vietnam war, it did amount to at least several hundred billion dollars.

Yet, as the distinguished Senator from Texas has pointed out, the net result after that huge multihundreds of billions of dollars of peace dividend had been granted to the United States was that we were spending more money than we had been spending before, that the tax burden on the American people was greater than it had been before, that the rate of inflation was higher than it had been before, and that the national deficit was greater than it was at the beginning of the term of that peace dividend, largely because so many undifferentiated, different, and sometimes inconsistent, spending programs had been launched, each with a good will and each with its own individual justification by the Congress of the United States.

As a consequence, the Senator from Texas has suggested that we learn from that lesson and that the next time around we first get our own fiscal house in order, and in this respect his proposal and that of the distinguished Senator from Massachusetts, at least chronologically, are identical. Each of them speaks of this peace dividend really beginning only when we have brought our national fiscal house in order and have balanced the budget, specifically, in the case of the proposal of the Senator from Massachusetts, after we have balanced the budget without counting into that calculation receipts which go into the Social Security trust fund. Thereafter, the two proposals differ. The Senator from Massachusetts proposes, as a second priority, that the money be used on a wide range of social or infrastructure programs, each of which, taken individually, is obviously desirable for the country, but which do not differ in their philosophy. In the view of this Senator, from the way in which we handled the priorities at the time of that earlier post-Vietnam peace dividend, with a very slight change in phraseology.

What the Senator from Massachusetts commends to us is precisely what led us into all of our various difficulties toward the end of the 1970's.

Then after that, the proposal of the Senator from Massachusetts again becomes more or less identical, certainly

highly similar to that of the Senator from Texas. Then the balance of the money should be returned to the American people as individuals and as families to set priorities as they wished.

This similarity, however, hides a fairly profound difference between the two approaches. The Senator from Texas has great faith in the wisdom and the ability of the American people to set their own priorities with their own money. The Senator from Massachusetts, by setting that priority third and having so many others ahead of it, almost effectively precludes any real tax relief to the American people themselves and essentially says that the Congress can determine a better set of priorities for the spending of this money than can the people themselves.

On consideration, Mr. President, I suspect that I will vote for both of these amendments. I greatly prefer that proposed by the Senator from Texas because, it seems to me, that it takes counsel of the lessons which we have learned from history and sets the orders of priorities correctly. But I will say for the Senator from Massachusetts that, by setting at the very beginning of this process an appropriate, proper, and, I would say, a conservative fiscal policy, it is certainly a better order of priorities than to do nothing at all and to move helter-skelter into the future without even having considered how we will order these priorities.

So, I am delighted to be a cosponsor of the amendment proposed by the Senator from Texas, which seems to me to set proper fiscal priorities. I am almost equally pleased that it has elicited from the Senator from Massachusetts the kind of response it has, because that response, while I do not believe it to be as positive as the proposal from the Senator from Texas, is certainly an improvement over doing nothing.

This is a debate which obviously will engage Members of this body and the other body and the people of the United States through the entire decade of the 1990's. I believe we have made a good start today, and we could do far worse than to adopt both of these amendments.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, what I would like to do is propound the request to deal with the proposal of Senator GRAMM and Senator SASSER. I understand it is agreeable to the Senator from Texas.

I ask unanimous consent that the motion to recommit be withdrawn and that there be 60 minutes equally divided between Senators KENNEDY and GRAMM, that immediately upon the conclusion or yielding back of time the Senate vote immediately, without any intervening action, on a Sasser amendment identical to amendment No.

1271, to be modified as a first-degree amendment, and that immediately upon the completion of that vote, the Senate vote, without any intervening action, on the Gramm amendment No. 1270, as modified by amendment No. 1273, that amendment No. 1272 be withdrawn, that no amendments or motions be in order to the amendment, except a motion to table the motion to reconsider the vote.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object and I hope I will not have to object.

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

Mr. HELMS. If it would be agreed that I would have no more than 7 or 8 minutes, but I want to be assured of that much.

Mr. GRAMM. I would be happy to yield to the Senator from North Carolina.

Mr. LOTT. Reserving the right to object, we are going to be protected and have an opportunity to participate in this debate even under this agreement, are we not?

Mr. GRAMM. It would be my intention, knowing the great eloquence of the Senator from Mississippi, to yield him a substantial amount of the time that I have. And I intend to yield a part of that time to the distinguished Senator from Idaho.

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

AMENDMENT NO. 1274

(Purpose: To state the sense of the Senate on the uses of the peace dividend)

Mr. SASSER. Mr. President, I send an amendment to the desk for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows: The Senator from Tennessee [Mr. SASSER], for himself, Mr. KENNEDY, and Mr. KOHL, proposes an amendment numbered 1274.

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

Mr. SYMMS. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue reading the amendment.

The legislative clerk continued reading as follows:

At the end of the bill, insert the following: SEC. . POLICY REGARDING "PEACE DIVIDEND".

(a) FINDINGS.—The Senate finds that—

(1) in recent months, dramatic movements toward greater political and economic freedom have occurred in Eastern Europe and the Soviet Union; and

(2) these democratic reforms will permit the preservation of our Nation's security at a cost less than current budget levels.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that funds saved as a result of reductions in military expenditures shall be used for—

(1) balancing the budget, without resorting to use of the Social Security surpluses,

in order to stop the ongoing "thievery" and "embezzlement" from the Social Security Trust Funds;

(2) urgent national priorities, including investing in America's future, anti-drug and anti-crime efforts, education, health care, the environment, rebuilding the infrastructure, assisting emerging democracies, and other critical needs;

(3) tax reductions for working men and women.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield such time as the Senator from Tennessee desires.

Mr. SASSER. Mr. President, I thank the distinguished Senator from Massachusetts.

I think this debate today is significant because for the first time I think there is a general consensus that there is going to be a peace dividend. I said in times past that if there is going to be a peace dividend this year in this budget it is going to be up to the Congress to carve out a peace dividend.

Last year, the administration, in their defense function of the Federal budget, spent somewhere in the neighborhood of \$296 to \$298 billion in outlays. This year, the administration is requesting \$306 billion in funds for the 1991 defense budget.

Clearly, Mr. President, there is no peace dividend in this budget that was submitted this year by the Bush administration. But judging from the tenor of this debate so far, it would appear that there is a general consensus here among our colleagues that there is going to be a peace dividend. And the question simply is, how should this peace dividend be utilized?

Well, I could not agree more that a peace dividend ought to be utilized initially, and substantial portions of it, to reduce the Federal deficit.

How large a peace dividend should we strive for? The years immediately following the Korean war, leading up to the war in Vietnam and in the years immediately following the war in Vietnam before we engaged in the massive military buildup beginning in 1982, we averaged spending somewhere in the range of \$215 billion in 1990 dollars for defense. Now, in 1990 dollars, that is roughly about \$80 to \$85 billion more than the administration is requesting in their defense budget this year.

Bear in mind that following the war in Korea and following the war in Vietnam, we were facing a Soviet Union that we deemed to be inherently hostile to the United States, one that was threatening and that we perceived to be armed to the teeth. I submit now that we are making some judgments which indicate that perhaps our original estimates of the military prowess of the Soviet Union during those periods was overestimated. But, nevertheless, we felt that \$215 to \$220 billion a year in 1990 dollars was sufficient to meet the Soviet threat during the decade of the 1950's, during a portion of the decade of the 1960's, before we became actively en-

gaged in Vietnam, and we felt that amount was sufficient following our disengagement from Vietnam. This was during the period of the Eisenhower administration, the early years of President Kennedy's administration, the years of President Nixon's administration, following Vietnam, and President Ford's administration following Vietnam, and also during the era of President Carter.

So clearly there is a peace dividend to be had here if the Congress will simply carve it out, a peace dividend that can amount to as much as \$80- or \$90 billion in a period of 2 or 3 years without impairing the ability of this Government to protect the national security of the United States one whit.

Now let us say that that peace dividend is delivered. Where should it go? Well, I submit, No. 1, it ought to go to help balance this budget deficit. We have been running, during this decade of the 1980's, the largest budget deficits in the history of this country. We have seen the national indebtedness of the United States triple during the space of the 1980's.

It took this country 200 years to buildup a national debt of slightly under \$1 trillion, but from 1981 forward we have seen that national debt more than triple.

Then we look to see what is the proximate cause of this hemorrhage from the Treasury of the United States. Well, I called my colleagues' attention just a moment ago to the Economic Recovery Act of 1981. According to the Office of Management and Budget of President Reagan, Reagan's OMB, the Economic Recovery Act of 1981, the so-called supply side tax cut, deprived this Treasury of \$1.400 trillion over the decade of the 1980's. You take that number and add to it the military buildup during the decade of the 1980's and there is your increase in the national debt.

Now, the question comes: Where did this tax cut go to? Who benefited from the tax cuts in 1981?

Well, Mr. President, clearly the working men and women of this country did not benefit from that tax cut. During the decade of the 1980's, the richest 5 percent, as I said earlier, saw their incomes go up 45 percent. The poorest 10 percent saw their incomes go down by 8.4 percent, according to the Congressional Budget Office.

During the decade of the 1980's, we saw the formulation of the most regressive tax structure in the 20th-century history of this country. During the 1980's the effective tax rate of the wealthiest 5 percent dropped by almost 10 percent and the poorest 10 percent saw their effective tax rate rise by 28 percent. So when we start talking about tax cuts, I say to my colleagues, we better give some consideration to who those tax cuts should be for.

There has been some statement on the floor of this body that as a result

of these tax cuts we unleashed this mighty economic engine of the American economy. Mr. President, I call the attention of my colleagues to these statistics. During the decade 1970-79, the real gross national product of this country grew by 32.1 percent. Bear in mind, Mr. President, this occurred during a period when we were suffering from two very severe oil shocks. This came at a time when we were talking about stagflation. This came at a time when we were concerned about slow growth in our GNP.

During the decade of the 1980's from 1980 to 1989, we saw this real growth in GNP slow by 2.1 percent; 32.1 percent real growth in GNP from 1970 to 1979 vs 30.0 percent real GNP growth from 1980 to 1989.

I know my colleagues, many of them on the other side of the aisle, are very fond of talking about economic growth from 1932 forward. They are very fond of using as a baseline the worse recession, indeed depression, that this country has had since the 1930's and then building up from there. Mr. President, I submit that is mistaken. In my view we ought to look at it from decade to decade.

Then the statement was made earlier, well the deficit is down now as a percent of GNP from what it was in 1980. The facts are that the deficit as a percent of GNP in 1980 stood at 2.8 percent. Bear in mind we were not borrowing or taking or embezzling money, as one of our colleagues characterized it, from the Social Security fund in 1980 to offset the deficit. Today, in 1990, when we take out the embezzlement that is occurring with the Social Security trust fund we find that the deficit as a percent of GNP is percent, almost double what it was in 1980.

So, Mr. President, when we state talking about tax cuts the first question is who should these cuts go to? Then, when we start talking about unlocking the economic engine of this country with these tax cuts, I think we need to restudy some of the recent history.

Mr. President, I am going to strive mightily to see that we realize a peace dividend this year and in the following years, if international conditions remain as they are at the present time. But I submit the funds from this peace dividend ought to go first to addressing the imbalance in this deficit that we have now; to redressing the imbalance in the tax structure that we see in this country at the present time when some would wish to perpetuate even further.

Just let me give an example. Under the capital gains tax proposal that was passed last year in one House and espoused by the administration, we find that those making less than \$50,000 would get 8 percent of the benefits of that capital gains tax cut. But if we take the Moynihan tax proposal, a real tax cut for real working people, we find that fully 55.7 percent of the

benefit would flow to people making less than \$50,000.

So when we start talking about cutting taxes, Mr. President, I think we need to give some consideration as to whose taxes we are talking about and whose taxes are going to be cut.

But this peace dividend should be directed, I think, first to putting the fiscal house of this Government in order, redressing what I think will be characterized by historians in the future as the fiscal madness of the U.S. Government during the decade of the 1980's. And then it ought to be applied to some of the long-neglected domestic needs of this country, things like education, rebuilding the infrastructure—the list goes on and on. And then we ought to discuss the question of giving a real meaningful tax cut, Mr. President, to the working men and women of this country who have paid the cost of bringing us through the period of the last 50 or 60 years, to the point that we can get to this payoff and actually look forward to a peace dividend.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Texas.

Mr. GRAMM. Mr. President, I want to focus on the real issues here. Let me first of all make it clear that the amendment which I have proposed does not prejudice a peace dividend. I personally believe there will be one. I also believe it will be declared prematurely, before the money is in the bank. And that it will probably represent imprudent public policy. But that really is not the issue here.

In my amendment I simply say the reforms in Eastern Europe "may permit the preservation of our Nation's security at a cost less than current budget projections." And then, any savings below the level necessary in defense savings to parallel nondefense savings to allow us to meet the Gramm-Rudman targets, balance the budget, and then balance the budget without counting the Social Security trust fund, that defense savings beyond that level if they occur should go back to families to invest in their future and therefore to invest in the future of America. That is what my resolution is about.

Let me turn, Mr. President, to the difference between the two resolutions. First of all, I intend to vote for the first resolution. It is a kind of kiss-your-sister resolution. But I never had a sister so this gives me an opportunity to do something I always wanted to do. I am also going to vote for it in part because of my distinguished colleague, Senator KENNEDY. I salute him for having been an early supporter of Gramm-Rudman. But now when I get to see our distinguished colleague from Tennessee who wants to repeal Gramm-Rudman talking about balancing the budget and reducing taxes, I cannot let that go unrewarded. So I intend to vote for this resolution.

But let me make it clear, Mr. President, that this is a do-anything kind of resolution but it does mention two things that I think it is good that we mention.

The difference really boils down to the second section of their resolution and I want to read that section. It says:

The savings from defense should go to urgent national priorities, including investing in America's future.

Mr. President, I ask my colleagues, who can we trust to invest in America's future, the Federal Government or the families of America?

I submit, Mr. President, that my amendment, which calls for us to give this money back to American families to let them invest in their own future, represents the transferring of resources to the one repository in American society that has proved itself up to the challenge. It also represents a fundamental continuation of the policy which won the cold war and tore down the Berlin Wall. If investment in America's future comes from Government, then how are we fundamentally different from the economic systems that are collapsing?

Second, we have a lot of talk in here about infrastructure. I heard several of my colleagues talk about new spending programs and talk about new infrastructure. Let me remind my colleagues that the record of the Congress on spending on infrastructure is dismal. In 1965, on infrastructure programs, the space program, air traffic controllers, we spent 2.6 percent of the budget on those items. Today we are spending 1.3 percent of the budget. Where is the investment in infrastructure?

Might I remind my colleagues that in these areas, consistently we have cut, first, President Reagan's budget proposals, and now President Bush's proposals. I heard our dear colleague from Maryland—and I congratulate her for being an excellent committee chairperson—who has within her allocation of funds tried to fund important programs. But, Mr. President, I am not talking about starving the Government in my amendment. I am saying the Government should grow as the economy grows, not faster than the economy grows. The Government should grow and can grow in meeting the Gramm-Rudman targets without a tax increase between 3 and 5 percent a year. That is between \$30 billion and \$50 billion a year. Is there not money in a \$50 billion growth in the ability to fund the space program or the National Science Foundation?

Mr. President, to criticize a proposal to balance the budget for not giving us enough money for those important investments is like a drunk who goes out and spends all his money on whisky and then curses his employer for not giving him enough money. The problem is in the priorities; the problem is not in the budget.

Finally, let me say that I think our dear colleague from Minnesota touched on something when he talked about the appropriateness of this amendment on this bill. Mr. President, this is yet a new spending program and, quite frankly, it is an Eastern European spending program. Only in Eastern Europe do you have to pay people to volunteer. Only in a collectivist society do you have to pay people to do something they claim to be doing voluntarily or make them do it.

This bill is a throwback to the failed policies of the past, but, in one important way, it is relevant to this debate. It is relevant to this debate because it is one of these rear-end loaded spending programs. The reason I have offered my amendment is that we are going to be voting on hundreds of these amendments. They are going to be adopted. They are going to cost a little money at first, but by 1993, 1994, 1995, we are going to find, just as we did in the post-Vietnam era, that we have squandered the defense savings on big Government.

Mr. President, I have several people who are ready to speak. No one on the other side wants to speak.

Let me first yield to the distinguished Senator from Idaho and, if I may, let me begin by yielding 5 minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. I thank the distinguished Senator from Texas for yielding.

Mr. President, I rise in opposition of this bill—the National and Community Service Act of 1989.

The title of the legislation sounds very impressive. It seems to connote good old American values and the importance of volunteer service to the community and the Nation as a whole. If the bill did, in fact, stand for this, I would support it wholeheartedly. However, I believe the National and Community Service Act misses the mark of the original intention.

Volunteer service means to give one's time and effort to a cause or service that will benefit others without self-interest. That is not what this bill promotes. Instead, it offers financial rewards for those who voluntarily participate in various programs; it pays people to volunteer. And, we all know that when the Government claims to finance something, it means the taxpayers will pay for it. So, the reality of this legislation is that the taxpayers will pay others to volunteer their services. If the original goal of the National and Community Service Act was true volunteer participation, the bill has badly missed its mark.

I would like to point out a few of the problems I see with this legislation. First, I do not believe it is in the best interest of local communities to have community services directed by the Federal Government. The communities themselves know what types of

programs would be most appropriate, all areas being diverse with different needs. It is inconceivable that direction at the Federal level would be effective in all communities.

Second, before Congress authorizes new programs for the next 5 years and spends hundreds of millions of dollars, it would be helpful to know whether or not those programs will be effective. If we must mandate such things, it would be much wiser to do so for a shorter time period to ensure they will be beneficial.

Third, it is not the Federal Government's responsibility to mediate between volunteers and local service providers, which is exactly what will happen if this bill passes. I believe Congress has better things to do with its time.

Further, if we begin paying volunteers to participate in community services, it will create a tremendous disincentive for those who truly volunteer their services. These are the people that we are trying to encourage—caring American citizens.

And finally, all this Federal intervention at the local level will only create further bureaucratic regulations and redtape in the daily lives of Americans—a clearly undesirable achievement.

Obviously, Congress needs to take another look at this issue. Let us not make the common mistake of legislating without really considering the impact of our actions on those we are here to represent.

Mr. President, I also thank the Senator from Texas for his amendment.

I want to make two points in my remarks in the short time that I have, which continue on the line of what the distinguished Senator from Texas said about the comments the Senator from Minnesota made earlier. I think it is appropriate that this amendment be on this bill. This bill will end up costing \$1.2 billion, I believe.

Mrs. KASSEBAUM, on page 92 of the report, files her views. She says:

My opposition to this legislation is based on two main concerns: first, the \$300 million authorized for service programs is a substantial sum of money. Should such additional funds become available, they would be spent more effectively on programs such as Head Start.

I just met with a group of constituents from my State who are asking for a meager amount of \$300,000 to continue some important research on feed grains, barley specifically, in the Pacific Northwest, at Washington State University, and the University of Idaho. This money is competition to that.

Mr. President, I think the Senator from Texas is absolutely correct. If there is a peace dividend, the safest thing for the American people is to return this money to them. I have said all year this country would be better off if the Congress of the United States would pass a continuing services budget, allow the Gramm-

Rudman-Hollings sequester to kick in to force the balanced budget, adjourn the Congress, and return next January. The country would be better off because everything we are going to pass is going to cost money and it is going to add regulations to the cost of doing business in the country for very little good.

We have a massive, expensive clean air bill coming up. Everyone wants to be recorded as being for the environment, so it will probably pass. That is one of the reasons we had the recession in the late seventies and early eighties because this country was aggressively adopting the 1977 Clean Air Act amendments. That is something that is not often talked about, but it had a great deal to do with the depths of the recession that went on in this country in the late seventies and the early part of the eighties.

Mr. President, I want to say one other thing with respect to the peace dividend. For a brief period of 5 years, the United States from 1981 through 1985 spent 1.5 percent more of our GNP on defense spending than we had previously. During that 5-year period, we literally demonstrated to the Soviet Union they could not compete with us in the arms race, and we have seen a massive revolt of people across the world seeking freedom. We have seen the Berlin Wall come down. We have seen people emboldened in Nicaragua to vote out a Communist government just this week. Why? Because they perceive the United States as strong. They have great hope in their hearts with the fact the United States has helped the people in Panama to throw out the dictator and put in the people they legitimately elected.

Mr. President, I call to the attention of my colleagues, now that we are talking about the so-called post-Vietnam peace dividend, and I agree with Senator GRAMM's wording. If there is a peace dividend, the worst thing this Congress can do is add fuel to what the news media has already done.

I want to quote Ray Cline from the book "Behind the Smile Are Teeth of Iron." This is not Ray Cline's quote: Behind the smile are teeth of iron" are the actual words used to describe Mikhail Gorbachev by former Soviet President Andre Gromyko, the perennial Communist Foreign Minister who died in 1989 after being summarily ousted from office.

Mr. President, I want to quote in the foreword of this book:

A brilliantly conducted public relations campaign by Mikhail Gorbachev, abetted by the enthusiastic (and unprecedented) cooperation of the U.S. news media, has convinced most Americans that the Cold War is over and a long period of peaceful relations with the Soviet Union lies ahead.

I hope that is true, Mr. President. But I think we should be extremely cautious of where we are going and be extremely mindful of what has happened.

I heard the sophistry on the floor of my friend from Tennessee talking about how the tax rates are now titled so that the rates have gone down for the wealthy. The sophistry of it is he does not tell the people in that speech that the wealthy people in this country, the high-income people are paying for a bigger share of the Government.

It is true their rates are down, but they are not in tax shelters as they were at the end of the seventies. They are actually paying a bigger share of the cost that is coming into the Federal Government. That is the sophistry of that argument. There are 20 million more Americans working today than there were 7 years ago. They have good jobs and good opportunities and over half of those jobs can reach as high as \$50,000 per year. So it is not low-income jobs that people are getting.

Mr. President, we should be extremely cautious, but we should also be very mindful of the fact, as the Senator from Texas points out, we are starting, with this bill that is before us today, the National and Community Service Act of 1989, another new program. It is another new program to go out and build another constituency of government. It is the same thing that has happened across the world. People are trying to get rid of big, oppressive government. Why should we follow that pattern in the United States when we have been the example for which they are reaching. We seem to be coming right in line to try to pass, as we say, Eastern-European-type programs. What we need are volunteer programs in the private sector like we formed in Idaho, called Working Partners.

I ask unanimous consent that pages 1 through 24 of "Behind the Smile Are Teeth of Iron" be printed in the RECORD.

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

THE REAL GORBACHEV

"Proposals for nuclear and conventional force reductions are flowing freely from Soviet officials. Hopefully they will eventually lead to something good. On the other hand, real-world trends in Soviet Strategic nuclear weapon deployments—the kind that directly threaten the United States—have little or no resemblance to Mikhail Gorbachev's soothing words."—*Maj. Gen. Henry Mohr, (U.S.A. Ret.), Distributed by Heritage Features Syndicate, March 3, 1989.*

Ever since the Soviet march towards increasing world power started, American leaders have repeatedly been misled into wishful thinking about their counterparts in the Kremlin.

At Yalta in 1945, President Roosevelt was optimistic about cooperating with "Uncle Joe" Stalin, a man who had exterminated well over twenty million of his fellow citizens. Roughly seven million Ukrainians were deliberately starved to death by Stalin in his farm collectivization program.

Jimmy Carter kissed Brezhnev on both cheeks in Moscow at the end of the 1970s. Just months before the Soviet invasion of Afghanistan, an abortive act of political ag-

grandizement that resulted in over 1 million Afghans being killed.

President Reagan, after denouncing the Soviet empire as "evil," finally came to call Mikhail Gorbachev his "friend."

Is Gorbachev different from his predecessors, or is he the more skillful protégé of Yuri Andropov, former head of the Soviet state and chief of KGB, the Soviet secret police, which has a seventy-year record that rivals Hitler's Gestapo in arrests, torture, imprisonment, and murder of millions?

Repeated images of a smiling, friendly Gorbachev on TV, a never ending flow of "peaceful" proposals, and ringing endorsements of the Gorbachev regime by opinion leaders in Europe and the United States have convinced most Americans that he is a new kind of Soviet leader. But is he? He is smooth and persuasive, but are his goals fundamentally different from those of Lenin, Stalin, Khrushchev, and Brezhnev?

"Despite Soviet rhetoric about 'democratization,' Gorbachev's specific reform proposals tolerate no opposition parties and have led chiefly to a greater consolidation of power in the hands of Gorbachev himself."—*Center for Security Policy, Washington, D.C., January 25, 1989.*

In Afghanistan, during Gorbachev's presidency, the Soviet military forces distributed mines disguised as toys, butterflies, small birds, and stones that maimed thousands of children. When the Soviet military forces pulled out, which they did at a leisurely pace, they left between ten and thirty million mines, some buried, some scattered randomly about the countryside, that will be killing people for many years. And, of course, Moscow still gives massive political, economic, and military aid to the communist regime in Kabul, hoping to frustrate the political goals of the mujaheddin freedom fighters who won on the battlefield but have not yet made much progress in the political arena. As a political presence, the Soviet Union is still very much in Afghanistan—a major power player in the great game of nations.

"Moscow is supporting Afghanistan's communist government with the largest military airlift in Soviet history. Western diplomatic sources said yesterday."

"The diplomats, who spoke on condition of anonymity, estimated Soviet military aid to Afghanistan during the first half of 1989 was worth more than \$1.5 billion."—*The Washington Times, October 4, 1989.*

While Gorbachev talks of glasnost (openness) and new freedoms for Soviet citizens, he is keeping millions of people in harsh labor camps inside the Soviet Union. The U.S. news media rarely mention this fact, even though it is documented in official U.S. Government reports.

Much of the terrorism in the world has had Soviet support. For 20 years, the Soviets have provided training, explosives, guns, and material supplies to terrorists. Outrageously, in the spring of 1989, Gorbachev sold Muammar el-Qaddafi SU-24 bombers that enable Libya, the most determined terrorist state of the whole world, to threaten Israel's existence.

Several Soviet-backed nations provide direct support to drug traffickers. The most widely publicized examples are Cuba, Nicaragua, and Bulgaria. The vast majority of terrorists and armed revolutionary groups are Marxist-Leninist in ideology and cooperate with international narcotics cartels throughout the world. Their main purpose is making money. At the same time, however, they are happy to be damaging the social fabric of capitalist societies, and they are doing so.

Under Gorbachev, the Soviet Union continues to violate vitally important treaties,

agreements, and understandings with the United States. This undisputed fact raises the question of the value of making new agreements with Moscow.

Under Gorbachev, the Soviet Union's efforts to acquire U.S. technology and vital defense secrets through theft and spying have risen to unprecedented levels.

And of special significance to every American is the fact that Gorbachev continues to produce vast quantities of new advanced-technology military weapons. He continues to modernize his armed forces, despite the financial strains the Soviet economy is undergoing at home and despite his repeated assurances that he wants only sufficient military strength for security. Five months after he said the Soviets would withdraw 10,000 tanks from Europe, the Soviet production of new tanks—according to American estimates—reached a record high of 1,025 in the first quarter of 1989 which if continued would be 4,200 new tanks per year. Soviet officials have said the production rate will be only about half that level, but it is unquestionably very high.

"Since Gorbachev took office the Soviets have fielded more tanks and artillery pieces than currently exist in the combined armies of Britain, France and West Germany."—*General James Galvin, Supreme Allied Commander in Europe.*

Deployments of new ICBM mobile missiles continue, and work proceeds on still another generation of strategic missiles—with the United States plainly the primary target.

As the facts in this book reveal, the Soviet threat continues to be real and menacing. Even though Gorbachev declares that the Soviet Union is no longer an enemy of the United States, the main obstacle to Soviet dominance in world politics is still the strength and national security preparedness of the United States. Communist party leaders have called the United States the main enemy for 70 years.

Gorbachev says his goal is restructuring the Soviet economy (perestroika). He is sincere about that because he is presiding over a failing economy. He needs foreign capital and technology to strengthen the socialist state and save the increasingly unpopular communist party bureaucracy. Yet, in November 1987, just before he conducted a wildly successful summit with President Reagan in Washington D.C., culminating in the signing of the Intermediate-Range Nuclear Forces Treaty, Gorbachev said in a speech to Soviet leaders: "In October, 1917, we parted with the old world, rejecting it once and for all. We are moving toward a new world, the world of Communism. We shall never turn off that road."

In covering the speech for the American public, NBC TV News edited out these words. They evidently wanted to portray Gorbachev as a man with a new agenda somehow compatible with market economies and pluralist democracy. Many Americans are prone to wishful thinking.

Gorbachev's real agenda is preserving the political and economic power of the one-party dictatorship he now leads. He has seized more direct political control over the regime than any leader since Stalin.

Rhetoric aside, if he chose in earnest to undermine the basic structure of Leninist dictatorship, millions of privileged communist party bureaucrats, secret police, and military commanders would almost certainly force him to return to Lenin's goals or step aside.

We must remember that what Gorbachev is doing is far from new. In 1921, less than four years after the Russian revolution, Vladimir Lenin instituted the first Soviet

perestroika, the New Economic Policy (NEP), inviting economic subsidies from capitalist countries. He wanted foreign money and technology, just as Gorbachev does, and Lenin engaged in an effort, for a few years successful, to confuse the capitalists as to his true intentions.

"... the Soviets hope their reductions will diminish the West's perception of a Soviet threat while enhancing the reality of that threat. This is consistent with Soviet claims that the goal of Gorbachev's glasnost policy is to 'eliminate the enemy' of the USSR."—*Committee on the Present Danger, Eugene Rostow, Chairman, September 5, 1989.*

Under Joseph Stalin, who ruled the Soviet Union for nearly 30 years, the savage repression of Soviet citizens and the hostile attitude toward owners of private property everywhere became crystal clear. Yet, he too made conspicuous attempts, including nominal abolition of the Communist International, to lull the West into thinking the Soviet Union was turning away from spreading communism abroad. It never happened, and Stalin presided over the greatest expansion of Soviet power in history in the late 1940's, precipitating the "Cold War" so far many now hope is over.

In 1956, Nikita Khrushchev attacked the political style of Stalin, withdrew Soviet troops from occupied territory, announced cutbacks in the army and navy, altered Soviet strategic doctrine, promised wide-ranging political reforms, allowed the publication of anti-Soviet literature, released political prisoners, and invited the capitalists to do business with the Soviets. As described by several defectors with inside knowledge, the actions were all orchestrated to deceive the West into thinking the Soviet Union was changing, and enable the flow of foreign financial and technical assistance. Khrushchev's program is the model for what Gorbachev is doing today.

Between 1970 and 1975, Leonid Brezhnev undertook a *glasnost* policy of his own, which became known as "detente", and for years the West relaxed in a feeling that Soviet policies were turning favorable. The United States was also told by former communist officials who had defected that "detente" was a Soviet strategic intelligence operation, not intended to transform the one-party dictatorship. Their warnings were ignored and discredited.

Through all these periods of "relaxation" of international tension the Soviet threat continued to build, just as it is building today. The object has been to get Americans to relax so Soviet power could grow unopposed. It is necessary to pay attention to military hardware, not only to words.

THE GIANT DECEPTION

"Gorbachev told the Congress People's Deputies in May that although he was cutting spending and reducing forces, the cuts would give 'a new quality to the U.S.S.R. Armed Forces without any detriment to the country's defense capability.'"—*Paul Wolfowitz, Undersecretary of defense policy, July 27, 1989.*

The Soviet Union of Mikhail Gorbachev is a nation beset with social, ethnic, and financial troubles. This fact has led most Americans to think Soviet aggressive policies will be forced to change and will lead to "peace in our time," just as everyone hoped in 1939.

Most Americans believe Gorbachev's withdrawal from Afghanistan is evidence of his need to erase his financial problems at home, which is true. It is far from certain, however, that the withdrawal is permanent or that it will permanently ease international tension.

"A senior Soviet official said today that the Kremlin had decided to provide the Afghan Government with whatever weapons were needed to defend its cities against guerrilla attack.

The official, who is known to be in close contact with Mikhail S. Gorbachev, the Soviet leader, said the move was decided on after Moscow considered reinvoking Soviet forces in the Afghan war."—*The New York Times, April 14, 1989.*

Many European and American observers point to *glasnost* and *perestroika* as a proof that Gorbachev is a new kind of Soviet leader, and to the labor and ethnic unrest in the Caucasus and in the Ukraine, as well as demands for reform in Soviet client states in Eastern Europe, as proof of Gorbachev's need to change to a policy of butter instead of guns.

But what are the facts? Contrary to what most Americans have been led to believe, under Gorbachev there is no indication yet of any decrease in military spending or in weapons production.

Most experts say the Soviet leaders are now spending between 15 and 20 percent of GNP on the military. By comparison, the United States spends about 6 percent of GNP. The truth is, no one knows exactly what the Soviet Union spends. Estimates made public in 1989 are still full of ambiguities and do not cover all expenditures. True costs are higher. The real Soviet military budget is still secret.

"Taking all defense-related spending into account, the Soviets devote roughly 23-28 percent of their GNP and roughly one-half of their state budget to military forces and military power."—*Committee on the Present Danger, Eugene Rostow, Chairman, September 5, 1989.*

We are told that the Soviet Union is in dire economic straits, that Gorbachev has changed his military forces from an offensive to a defensive doctrine, and that all he wants is reasonable sufficiency to protect the Soviet Union. But this is what Soviet leaders have been saying for 70 years. They have often been an economic basket case, but have continued to give first priority to the military forces and secret police, irrespective of how badly the population suffers.

As columnist Charley Reese asks, "If the Soviet economy is so bad, why are they keeping the military rates of expenditure so high? Why do they keep turning out so many weapons? If Gorbachev really intends to create a more open and democratic society, why do changes in the Soviet constitution concentrate even more power in the hands of Gorbachev? If American TV programs spent more time reporting facts and less time interviewing Soviet propagandists, perhaps the situation would be clearer to the American people."

"Although Gorbachev proposes to reduce the Soviet defense budget by 14.2 percent, since 1985 Soviet defense expenditures have increased by an average of 3 percent per year in real terms."—*Soviet Military Power 1989, U.S. Department of Defense.*

There is no better Soviet propagandist than Mikhail Gorbachev himself. In the United States and in Europe, a large majority of the public and political leadership have been taken in by his smile and his promises. Today, four out of five West Germans believe the Soviet threat is disappearing. Obviously, what is creating these impressions are the relatively minor military cutbacks in Europe and the massive Gorbachev-directed publicity campaign designed to influence the German people. There is nothing new about this approach. The Soviet Union spends over \$4 billion yearly

on active intelligence measures, primarily propaganda, to influence the West.

Gorbachev has promised to remove 10,000 tanks from Europe. All the network TV news programs feature this dramatic evidence of goodwill. What goes seldom reported is that the Soviet have over 50,000 main battle tanks and some 60,000 armored vehicles, and that the reduction amounts to little more than the retirement of the obsolescent portion of their stockpile. By removing his old tanks Gorbachev will actually increase the fighting power of his army.

The same can be said about his promise to cut force levels by 10 percent, which is less than 5 percent of the combined active and ready reserve. These cuts would have an imperceptible effect on Soviet military capabilities. How is one to judge the reductions?

During the past twenty years of negotiations on conventional force reductions, the Soviets have repeatedly lied about the number of forces in Eastern Europe and have also required their Eastern European satellites to report false troop strengths to the West European and U.S. negotiators.

The inescapable truth is that the Warsaw Pact has overwhelming superiority over NATO in tanks, artillery, aircraft, number of troops, and in modern and efficient chemical weapons military units. The announced cuts do not change the decided Soviet military superiority. If anything, the superiority will actually increase if NATO nations cut back on their defense spending in response to the publicity campaign associated with the Soviet announcements.

"Even if the Soviets completely eliminated the forces discussed in Gorbachev's 9 December 1988 United Nations' speech, Warsaw Pact forces would still outnumber NATO in tanks, artillery, and divisions by a ratio of over 2 to 1."—*Soviet Military Power 1989, U.S. Department of Defense.*

Why does Gorbachev really need the military strength he is preserving? Through establishing both an image of friendship and the reality of massive military superiority, experts foresee the continued use of the "carrot and stick" approach. The Soviet plan is to eliminate from Europe all nuclear weapons by creating obstacles to modernization of NATO's remaining nuclear weapons, thus rendering Europe helpless against the Soviet Union's remaining massive European conventional superiority. And Gorbachev plans eventually to detach Europe politically and strategically from the United States, a high priority Soviet objective since the early 1950's.

Virtually every one of the many Gorbachev proposals which seem to advance the cause of peace are suspect or misleading.

Everywhere he goes, Gorbachev continues his "peace" proposals, all of which are dutifully reported to the American people by TV, radio, and newspapers. No one bothers to explain what the Soviet Union means by "peace," which Soviet ideologists since Lenin have insisted can be achieved only after all competing social systems, especially democracies, are destroyed and replaced by Marxist-Leninist societies.

When he visited Cuba in April 1989, Gorbachev called for an end to all outside military aid to Central America. The Soviet military subsidies to Cuba and Nicaragua continue. White House spokesman, Marlín Fitzwater, correctly responded, "While his words about not exporting revolution are welcome, they are not matched by deeds which would give those words credence."

"American experts on military affairs said today that President Mikhail S. Gorbachev's plan to remove nuclear-armed submarines from the Baltic Sea would not signifi-

cantly change the balance of power between the Soviet bloc and NATO."

"John F. Lehman Jr., who served as Secretary of the Navy from 1981 to 1987, said Mr. Gorbachev was making a political virtue of a military and fiscal necessity. For years, Mr. Lehman said, Soviet admirals have wanted to retire the Golf-class submarines because they are 'ancient, rickety machines that add almost nothing to the military equation and are very expensive to maintain.'—*The New York Times*, October 27, 1989.

ISOLATING THE UNITED STATES

"The Central Intelligence Agency reported earlier this year that in 1988 the Soviet Union supplied \$515 million worth of military equipment to Nicaragua, the second-highest yearly total since the Kremlin began shipping weapons to Managua in 1980."—*The Washington Post*, May 16, 1989.

Few Americans have stopped to realize that the countries around the world that have fallen into Soviet hands and Soviet control are not randomly selected. They are all strategically located along sea lanes of commerce—Vietnam, Ethiopia, Yemen, Mozambique, Angola, Grenada, Cuba, and Nicaragua. They lie along or near chokepoints on sea passages vital to American trade with other nations.

One reason is that the Soviet goal is to separate the industrialized states from their foreign sources of strategic minerals, and to disrupt the sea lanes through which these economic resources move. Stalin explained this strategy nearly 40 years ago. Thus they hope in the long run to weaken the industrialized states and hasten the ultimate victory of Moscow-brand socialism. The communist states have not succeeded yet, but it is premature to believe they have abandoned their goal.

The destabilization of capitalist societies is what is behind the political unrest in South Africa. Virtually never reported by the American press is that fact that the African National Congress, the organization behind the massive effort to overthrow the present government in Pretoria, is led by members of the Communist Party of South Africa and is financed and provided arms by Moscow. The goal is not only in the long run to obtain for the Soviet Union the vital minerals upon which U.S. military technology is heavily dependent, but also to control the critically important sea lanes around the tip of South Africa where the waters of the Atlantic and Indian Oceans converge.

In our part of the world alone the Soviet efforts to undermine American influence and create communist client states are massive. Gorbachev is now sending perhaps as much as \$1 billion a year in military and economic aid to Nicaragua. The Sandinistas plan to expand their military forces to 600,000 by 1995. They have indicated a desire to upgrade their air power with fighter aircraft and more helicopters. In addition, they have talked about acquiring long-range artillery, armored personnel carrier, and anti-tank weapons, as well as greatly strengthening their navy with warships, patrol boats, minesweepers and hydrofoils. For a nation of three and one-half million people, these goals are ridiculous—unless a threat to the seelanes leading to the Panama Canal is envisaged.

Sixty-five percent of the ships carrying goods to and from the United States pass through the Panama Canal, all within range of MIG-21s if they are stationed in Nicaragua.

Soviet-supported Cuba, where Gorbachev sends \$7 billion a year, is already capable of interdicting U.S. ship passing through the Florida Straits—through which pass 45 per-

cent of all U.S. exports and imports and 60 percent of U.S. resupply material to NATO.

"The Cold War cannot be won without the Soviet's renunciation of their claims upon other countries of the world. If they wish to renounce those claims, why do they continue to arm in such fashion as makes sense only if they harbor aggressive designs?"—*William F. Buckley, Jr.*, June 7, 1989.

Whether it is south of our border, in the West Pacific, or Southern Africa, the Soviets are still staking out positions of strength to be exploited later by mounting a threat to American freedom of passage through the ocean chokepoints.

Gorbachev's goal is clear. He is sending \$16 to \$18 billion a year to maintain client governments. He is laying the groundwork for separating America from foreign sources of vital minerals and strategic supplies by disrupting the sea lanes upon which we and our European allies depend. In this way, he can dislocate our economy, weaken our ability to resist Soviet interventions abroad, and speed the day when the United States will appear to most foreigners to be a second rate nation no longer more prosperous than the communist states and without the national will to defend American interests overseas.

Vital to the realization of this long range goal is for Gorbachev to move quickly to neutralize our entire nuclear deterrent, which he has made amazing progress toward doing.

SOVIET MISSILE SUPERIORITY

"Mr. Gorbachev's December proposal to cut the military forces by 500,000 was mostly symbolic, while the new 'defensive posture' in Europe remains just a pledge. Meanwhile, every report we get is that new mobile intercontinental nukes like the SS-24 and SS-25 continue to roll off the production lines, as do Blackjack bombers armed with Cruise missiles, advances in anti-missile defenses, and submarines."—*Robert Gates, former CIA Deputy Director*, October 1988, reported in the *Wall Street Journal*, April 14, 1989.

Walter Cronkite of CBS News once explained the way the U.S. news media deal with defense matters: "There are always groups in Washington expressing views of alarm over the state of our defenses. We don't carry those stories. The story is that there are those who want to cut defense spending."

For years, the media have concentrated on news about defense department overspending, insider information peddling, criticism of the arms race, and news of U.S. weapons failures. Almost completely overlooked has been any comment about the massive arms build-up that was launched by Leonid Brezhnev and is still going on under Gorbachev.

For example, the Soviet leaders now have in their arsenal the most fearsome weapon of destruction ever devised by man. It is the SS-18, an intercontinental missile (ICBM) twice as large as the U.S. Air Force's largest and most modern missile, the MX (now known as Peacekeeper) and much, much larger than the standard American Minuteman missile. The SS-18 weighs 200 tons and is as high as a 10-story building. Each SS-18 can carry at least 10 warheads—each with destructive power exceeding half a million tons of TNT. It has sufficient range to be targeted on the entire United States.

At last report the Soviet military forces had 308 SS-18s in the field, carrying about 3,000 warheads. They also had 360 SS-19s and 150 SS-17s. On just these latter two weapons they have about 2,500 warheads. The destructive power in the deployed SS-

18s alone is greater than the destructive power of the entire U.S. land-based missile force.

"Despite talk of reduced military budgets, Moscow still spends an estimated 15 to 17 percent of its GNP on defense, while the United States spends less than 6 percent."—*Soviet Military Power 1989*, U.S. Department of Defense.

And the Soviet ICBM build-up continues under Gorbachev. He has been deploying the new SS-25 for some time, and the 10-warhead SS-24 is in the initial stages of deployment. Both are mobile, which means they do not need to be deployed in a fixed site. The SS-24, which is the size of the U.S. Peacekeeper missile, of which we have only a few, is designed for both rail and silo deployment. The SS-25, about the size of a U.S. Minuteman missile, is transported by road.

The mobility of the new Soviet missiles makes a mockery of offers by Gorbachev to reduce his nuclear forces. We will never be able to tell how many SS-24s and SS-25s the Soviets have because they can be concealed in bunkers, hangars, factories, tunnels, or garages. U.S. reconnaissance satellites cannot see or count them if they are covered. Therefore we cannot target them.

"What security needs in the Soviet Union require this enormous number of ICBM warheads? The Soviet arsenal has long since passed the limits of any reasonable nuclear force aimed solely at deterrence of an American attack."—*Robert Jastrow and James Prell, George C. Marshall Institute*.

Not long ago, the USSR successfully tested a follow-on to the SS-18, with even more accurate warheads. Finally, the Department of Defense has reported signs of a sixth generation of ICBMs—follow-ons to the SS-24 and SS-25, and also mobile. U.S. Secretary of Defense Harold Brown under President Carter said it best some years ago: "When we build, they build. When we stop building, they build." Gorbachev has promised to stop building but he is not stopping even though he already has a tremendous arsenal of intercontinental missiles 30 minutes away from every American city.

It is almost transparently clear, once the facts are known, that Gorbachev has other reasons for such a massive superiority. His aim is to intimidate Americans and thereby constrain the freedom of American decision-makers to take risks in defense of the national security of the United States.

One of Gorbachev's aims is to have such overwhelming and threatening force as to prevent the United States from making any move to stop the Soviet Union from intervening in other countries and extending its hegemony wherever political and military vulnerabilities exist. This is not conjecture. This is directly stated by Soviet ideologists in their official writings.

American military power has forced Moscow to retreat from aggressive moves in earlier days. In 1956, when Khrushchev threatened to intervene in the Suez crisis NATO Commander Gruenther replied, "Moscow will be destroyed as night follows day." In that day it was true. Khrushchev backed away. When confronted by Kennedy in 1962, Khrushchev withdrew the missiles he was secretly deploying in Cuba. Today our options are more limited. We face a Soviet superiority in ICBMs with no defenses against them. Moscow has extensive active and passive anti-missile defenses. It has become dangerous and not very persuasive for the United States to threaten the Soviet Union with nuclear retaliation in view of the military capability of Gorbachev's armed forces. Our deterrent is diminished, if not totally gone.

"But there is another, far worse challenge facing America—the prospect of an effective Soviet defense against incoming American missiles."

SOVIET MISSILE DEFENSES

"Nothing could be more dangerous to the security of the west and global stability than a unilateral Soviet deployment of a nationwide ABM system combined with its massive offensive missile capabilities."—Former Secretary of Defense, Caspar Weinberger.

There is no more convincing proof of the failure of the U.S. Government and the news media to get across to the public the facts about the dangers our country faces than the results of a recent poll. It shows that 84 percent of the American people believe our country has a defense against incoming nuclear missiles.

The truth is that the United States is completely, totally defenseless against a missile attack. We cannot prevent a single warhead, even one launched accidentally, from detonating on our country. We cannot even prevent nuclear warheads fired at us by a terrorist state like Libya or Iran from exploding on an American city at the will of a fanatic like Colonel Muammar Qaddafi.

In 1975 the Congress, relying on the arms agreements of the period of "detente" in the early 1970s, disbanded our only ballistic missile defense system and has allowed none to be built since.

The Soviet Union, on the other hand, today has 100 underground silos around Moscow loaded with Gazelle and modified Galosh missiles. The Gazelle can intercept missiles and warheads at the edge of space, and the Galosh can destroy them lower down in the earth's atmosphere. New hardened silos have been constructed for these missiles. The interceptor missiles are guided by an elaborate system of radars; one giant phased array radar, which can track large numbers of warheads, determines which targets they are aimed at, and then passes the instructions on to small radars which direct the interceptors to make the "kill."

The Moscow system in general is permissive under the ABM Treaty. On the other hand, this system is being designed and tested for rapid reload missiles, thus greatly extending its capability, in violation of the Treaty. Also, the U.S. government now knows that the Soviet Union has production lines for turning out components of the Moscow ABM system in large quantities despite the fact that their deployment in other areas is prohibited by the ABM Treaty.

"The Soviet Union has made a tremendous investment in air defenses. We have almost none in this country. We have very light air defenses in this country, which means we give Soviet bombers and cruise missiles essentially a free ride into U.S. air space."—Donald B. Rice, Air Force Secretary, September 27, 1989.

Already the Soviets have 9 giant phased-array radars with "faces" the size of 2 football fields located around the periphery of their country. Three more are under construction.

Each of the 12 will have the range and precision needed to pick up incoming U.S. warheads as they approach the USSR, determine which target each warhead is headed for, and alert individual ABM sites in the warhead's path to send up a missile to intercept it.

"Taken together, all of the Soviet Union's ABM and ABM-related activities are . . . more ominous than anyone considered individually. Cumulatively, they suggest that the U.S.S.R. may be preparing an ABM defense of its national territory—the only

missing element in their defenses."—1989 Strategic Defense Initiative Organization's Report to Congress.

A network of 12 battle management radars, combined with the facilities for mass production of ABM components, gives the Soviet Union the means for setting up a nationwide ABM defense if Moscow decides to break out of the ABM Treaty while the United States is still defenseless. Interceptor missiles are now being produced at Tyumen in Western Siberia. U.S. Air Force Intelligence has confirmed that the controlling radars are being mass produced at Gomel in the Byelorussian Republic.

Could U.S. bombers deal with the ICBM or ABM systems? The truth is that our old, slow flying B-52 bombers as well as our new B-1s depend on warning for survivability. In the event of a surprise attack (the preferred Soviet choice) many of the bombers stand a good chance of being destroyed on the ground. Those that survive will have to contend with Soviet long-range interceptors, and if the bombers penetrate Soviet air space they will face a sophisticated, in-depth air defense system, which includes some 9,000 surface-to-air (SAM) missile launchers and thousands of anti-aircraft guns. As for the B-2 stealth bomber, its \$70 billion price tag for 132 bombers and its technological complexity indicate it is at least years from deployment at best, and Congress seems to be debating whether to slow the program or cancel it entirely.

In this past decade the Soviets have deployed about 150 SA-10 missile launch units around Moscow and major military industrial areas. They are testing a new SAM system, the SA-X-12B, which will be an all-altitude system. The SA-10 is the first Soviet SAM with any real capability against cruise missiles. They can already defend against low flying, slow flying cruise missiles with their large force of aircraft with look-down, shoot-down radar capability.

"The Soviets are still improving their strategic nuclear capabilities. They are hardening facilities, making many of their forces mobile, have plans to disperse their military forces in time of crisis and continue to maintain the world's only recently upgraded anti-ballistic missile system."—(Adm.) C.A.H. Trost, Chief of Naval Operations, Sept. 16, 1989.

In these circumstances, the main retaliatory force that might survive a first strike against the United States is the latest U.S. strategic submarine, the Ohio class, which can launch Trident II nuclear missiles carrying 10 warheads from secret underwater locations remote from the Soviet Union. Navy sources maintain the Ohio class submarine will be invulnerable into the indefinite future.

The USSR now has in operational status more than 200 attack submarines. Since only 10 or 12 U.S. Trident submarines will actually be at sea at any time in the 1990's, the Soviet Navy could assign four or five attack submarines to each Trident to trail it from the time it leaves port, keeping it in a box from which it would be very hard to escape . . . and hence would be in danger of being destroyed.

"A (Soviet) nuclear submarine is launched every 7 weeks and a conventional type every 10 weeks."—Jane's Underwater, Warfare Systems 1989-90.

Any one of these Soviet defense activities is cause for concern. The United States still abides by the ABM Treaty. Thus the Soviet Union of Mikhail Gorbachev could be preparing a strategic breakthrough by establishing a nationwide defense against U.S. missiles while we are still defenseless against their missiles. If this situation ever comes about, the United States is in peril.

SOVIET MILITARY CONTROL OF SPACE

"Glasnost has led to a variety of new public reports on the Soviet space program. These reports, however, have been highly selective and continue to downplay the largely military orientation of Soviet space systems and operations."—Soviet Military Power 1989, U.S. Defense Department.

The Soviet Union's massive efforts to achieve a nationwide defense against ballistic missiles, cruise missiles and gravity bombs are enough to alarm the public. Soviet developments in military use of space compound the worry about strategic stability and a possible future conflagration. The space-oriented military efforts are closely related to defense of the Soviet Union and are a direct threat to the United States. As we have seen over and over in this book, the public is largely ignorant of what is going on.

A high-ranking defector reported that control of the cosmos (space) was made a high priority research and development activity shortly after the Cuba missile crisis and at the time of the big Soviet missile build-up in the 1970s.

The Soviet Union has conducted a propaganda effort accusing the United States of military efforts in space. Meanwhile, according to a Defense Department report, the Soviet Union "operates some 50 types of space systems for military and civilian uses, including space stations . . . and reconnaissance, launch-detection, navigational, meteorological and communications satellites." They are also developing space systems designed to support military operations on the earth.

On January 25, 1989, The Center For Security Policy in Washington issued a report which stated, "The sustained commitment and breadth of the Soviet space program is overwhelming . . . The Soviet space program is aimed at enduring military control of space; it stands in direct contradiction of the Soviet charge against the United States concerning the 'militarization of space' and throws into question the sincerity of the USSR's diplomatic initiative ostensibly aimed at preserving space solely for peaceful purposes."

"The Soviets have deployed 50 killer satellites capable of sweeping every U.S. and NATO military satellite from the sky in a single week."—General Thomas Krebs, former Chief of Space Systems Analysis, U.S. Defense Intelligence Agency.

For missions designed to put weapons in space the Soviet SL-X-17 heavy lift space launch vehicle can lift payloads almost 4 times heavier than the U.S. space shuttle. A Department of Defense report says, "potential payloads include modules for a large space station, components for manned and unmanned interplanetary missions and perhaps directed-energy and anti-satellite and ballistic missile defense weapons."

The USSR puts about 120 to 130 payloads into orbit each year, requiring about a hundred space launches. The total weight probably exceeds 600,000 pounds, the equivalent of twenty space shuttle missions.

Another Defense Department publication concluded: "Today we face a situation in which the Soviets can negate many critical U.S. space assets while their space systems that would support their offensive military operations enjoy a sanctuary in space. This situation does not contribute to a stable deterrence."

The Soviet Union of Mikhail Gorbachev clearly means in the long run to have superiority in space. This is happening despite all the promises and assurances to the contrary. It is happening without the American people being told of the truly grave long

term significance these developments can have.

"The most striking feature of Soviet military power today is the extraordinary momentum of its offensive strategic nuclear force modernization."—Richard B. Cheney, U.S. Secretary of Defense September, 1989.

One warning the American public has not heard much about came from former U.S. Defense Secretary Caspar Weinberger on February 2, 1988. "For three decades, the Soviets have been building an impressive capability to support the 'terrestrial' armed forces with space-based systems. They have built the infrastructure needed to fight a war from space, and more recently, to fight a war in space. We must understand and appreciate these developments and consider their implication for our national security." This warning of long-range challenge to national security needs to be known by every American.

THE CHEMICAL AND BIOLOGICAL THREAT

This multipolar world is not "necessarily going to be a safer place than the cold war era from which we are emerging, given the existence and indeed proliferation of weapons of mass destruction."—Lawrence S. Eagleburger, Deputy Secretary of State, in *The New York Times*, Sept. 16, 1989.

The Soviet chemical and biological threats are of a different strategic dimension and not so immediately aimed at the United States, but they are in some ways as frightening as the Soviet nuclear threat. The Soviet capability for deploying chemical and biological weapons is ten to a thousand times greater than that of the United States. The United States has very little effective defenses against such weapons. Soviet scientists have made a massive effort to apply genetic engineering and biotechnology to chemical and biological warfare. The United States acts as if it were oblivious to the enormous scientific developments in these areas that will affect our security more and more as time passes and even now pose an immense threat to our NATO allies in Western Europe.

The United States has no capability because Americans, civilians and military, sensibly dislike the very idea of chemical and biological warfare. We set about unilaterally to disarm in these fields in 1969 and have never built up a serious capability—apart from a modest potential for making new binary weapons that were offered to NATO and rejected. Our strategic planners have ignored intelligence warnings of Soviet capabilities since 1969 and have made U.S. security dependent primarily on arms control negotiations and treaties, notwithstanding Soviet violations of such agreements.

The chemical and biological threats are serious because of the revolutionary developments in the underlying science and technology. They are frightening because modern agents can be used covertly and disguised to mimic naturally occurring diseases. The potential threats demand action, most of all because Soviet leaders, on the basis of their past record, seem to have no moral qualms against using the weapons. Indeed, they have been testing and using them in areas remote from foreign view, particularly in Afghanistan.

Chemical weapons have been used by other nations—Iraq, Iran, Ethiopia, and Chad. Considerable publicity has been focused recently on the growing number of Middle East chemical weapons. They are especially ominous when coupled with the deployment of intermediate range ballistic missiles by some of these nations, including Libya and Iran.

While these developments are frightening and deserving of attention, far more serious

developments are taking place within the Soviet Union.

Clearly the Soviet Union of Mikhail Gorbachev has the capability for the mass use of such weapons in a regional conflict anywhere in Eurasia. A Defense Intelligence Agency report says the "Soviets have vaccines or antidotes for many of the diseases that they might use in a BW (Biological Warfare) attack. These include those for anthrax, tularemia, plague and botulism."

Frank Gaffney, formerly a senior member of the U.S. Defense Department, writes, "Today the United States has neither offensive BW capabilities nor even any appreciable capacity to defend itself against biological first-use by an adversary."

Chemical and biological weapons have become the most sophisticated weapons imaginable and the potential for auxiliary military of clandestine use are just beginning to emerge.

Unfortunately the U.S. has made no significant effort to analyze either what needs to be done, what can be done, or what the Soviet Union is doing. U.S. thinking in chemical and biological warfare is twenty years behind, and Americans simply are talking about bans rather than defenses. A Soviet threat to use these weapons of mass destruction or, more likely, some unidentifiable but highly covert employment of this capability would send a shockwave of panic through any targeted state or population group.

Lest we feel confident that the impact of nuclear weapons on public consciousness will prevent conflicts from reaching a military showdown, the Soviet armed forces' ability to deploy chemical and biological weapons at any point on their periphery in Eurasia suggests the United States must keep its guard up and its deterrent weapons ready. Our strategic defense vulnerability is a most urgent problem in light of the vast array of Soviet missiles.

A SCENARIO FOR SOVIET VICTORY

The development of small high-accuracy nuclear weapons means that the enemy can launch a surprise attack that decapitates the opponent's command structure and destroys the bulk of his forces, leaving him "strategically crippled, capable of only a spasmodic, disorganized and strategically aimless response—or none at all."—Dr. Zbigniew Brzezinski.

Why, despite the desperate condition of the Soviet economy, is Gorbachev spending so much of Soviet GNP on the Soviet military and continuing to increase the numbers of advanced technology weapons of many kinds that are already far more numerous than similar weapons in the United States?

Why is he building the main elements of a nationwide "Red Shield" missile defense? Why does he move towards military control of space? Why does he keep building nuclear missiles so far in excess of what he claims to be "reasonable sufficiency?"

Is it Gorbachev or simply the momentum of a centrally controlled state that has always viewed military power as its greatest geopolitical asset? Does it make any difference what Gorbachev thinks if the military teeth are there behind the smile?

Is it possible that what happened before World War II is happening again? Is Gorbachev, much like Hitler in the 1930s, deftly and brilliantly taking actions and making proposals that alternately alarm and reassure the world that he wants peace? Is the object to cause the United States to lower its guard by cutting back on military preparedness? Is the Soviet Union positioning itself so that at some not too distant time it will be able to threaten a credible first strike against the United States?

Major propaganda efforts have been undertaken in many quarters to convince the West that nuclear war is simply impossible because of the massive force of nuclear explosions and resulting fallout. Yet, the development of high accuracy missiles means that targets can be destroyed with much lower-yield warheads, while each missile can carry greater numbers of warheads. Known and located targets can now be destroyed with relative ease. Peace rests on the balance of military strike forces and the awareness of decision-makers and public alike in the democracies that weakness leads to blackmail and surrender. Although there is no indication that the Soviets have ever targeted cities to destroy people, millions of Americans certainly would die if military targets were actually attacked. In the high-stakes game of cashing in on military superiority, there is no need to destroy cities. It is the fear of their being attacked or the possibility of retaliatory weapons being neutralized that will determine what happens. Clearly, because of its restraint, the United States is more vulnerable in any real confrontation.

"The Soviet military has made clear its enormous interest in the new technologies of guidance and precision, and will have the capability to destroy military targets in the United States with low-yield nuclear weapons."

"This means that fewer weapons are needed to attack military targets, and collateral damage to civil society can be held to very low levels or totally avoided."—*Discriminate Deterrence Report of The Commission On Integrated Long Term Strategy*, January 1988.

Soviet military writers for a long time have been fascinated with the concept of a surgical first strike—a surprise attack that decapitates the opponent's command structure and destroys the bulk of his forces, leaving him "strategically crippled, capable of only spasmodic, disorganized and strategically aimless response—or none at all." For the amoral military planner, a first strike is simply "a viable option." While Soviet writers usually carefully say the United States is the likely country to launch a first strike, they are—for whatever the reason—clearly thinking seriously about the concept and outlining the enormous advantages a first strike would confer.

In this situation, it is incredible that U.S. policy cannot decide whether to build missile defenses, or to maintain an adequate civil defense system, or even to invest very heavily in a command, control, and communications system designed to survive in a nuclear war. This is not true of the Soviet Union, which has devoted as much effort to defense and survivability as they have to offense over the years. Indeed, their efforts have been so extensive that many elements of the Soviet leadership, command and control systems as well as strike forces are likely to survive a U.S. retaliatory strike. This is true even if you discount the potential shield provided by Soviet ballistic defense deployments.

To a Soviet Union beset by unrest at home, facing an upsurge of nationalism among the captive nations of Eastern and Central Europe, and rebelliousness among its own national minorities and workers, the resort to a strategy of threatening a first strike may one day seem to be irresistible to beleaguered Soviet leaders.

Gorbachev—deliberately or under pressure of the momentum of a militarized command system—seems to be taking all the correct measures necessary to prepare for a day when the Soviet Union, facing the signs of collapse of a 70 year old campaign to

achieve a dominant role in world affairs, can threaten in one strike to knock out the only country standing in the way of that goal. If the United States and its allies recoil from the threat and submit to blackmail, Gorbachev could almost overnight provide his people with economic booty from the European community that would then be at his mercy.

"Undeniably, major political changes are taking place in the Soviet Union. It is not clear, however, that these changes have yet, or will, reduce the threat posed by the Soviet military. Despite all the talk of new thinking in foreign and defense policy and despite all the real actions for domestic reform, the Soviets continue to improve their military forces, which are already the world's largest."—Richard Cheney, U.S. Secretary of Defense, May 1, 1989.

Whether or not Gorbachev actually has such a game plan, the temptation for his successors would be overwhelming to grab power by mounting a challenge—perhaps a bluff, but a menacing one—to the classical capitalist enemies of the communist state.

"Nothing could be more shortsighted for the West today than to run down its defense unilaterally at the first sign of more peaceful and stable relations between the East and West."—Margaret Thatcher, quoted in William Buckley column.

If the United States begins now to lower its guard by reducing its own deterrent military strength, Americans will in due course have only a choice between acquiescing to nuclear blackmail or accepting a devastating attack on our major defense installations. In either case, Gorbachev or some successor to his post is very likely to be in a position to assure the fulfillment of his promise made to the Soviet communist leadership in 1987, "We shall never turn off that road . . . to a 'new world, the world of Communism.'"

The scenario of how this strategic game could be started is alarmingly simple. The necessary ingredients Gorbachev or any other paramount leader need to make it possible are already falling into place.

The U.S. satellites on which we depend for early warning of nuclear attack can be destroyed, as can the communications satellites on which our ICBMs depend for guidance. Twenty years ago this kind of preliminary attack would have been considered cause to launch an American attack on Soviet military targets. But not necessarily today. It may be we can no longer afford to initiate a broad preventive attack. Certainly there would be divided counsels in NATO on how to respond to a Soviet *demarche*. Soviet leaders believe we can only react with words if they hold in reserve an overwhelming capacity to destroy American military weapons—and, if necessary, American cities.

An attack by the Soviet Union on our space satellite vehicles would leave us blind and vulnerable to a wide variety of Soviet military options. Soviet military forces have already tested weapons to attack these satellites. If current Soviet trends persist, and the U.S. Congress continues to weaken our nuclear triad and prevent our country from having a missile defense while the Soviets complete theirs, eventually the Soviet Union will have sufficient strength in space to challenge Washington. What choice would the United States have if the Soviet Union threatened to attack military payloads, early warning satellites, and a communications platforms in space all probably in the name of "preserving space for peaceful purposes?" No overt military act would be needed to bring the world to a terrifying crisis in the face of such a threat.

"In contrast to the recent Soviet announcement that total defense spending in 1989 will be 77.3 billion rubles, Western esti-

mates in current rubles would put Soviet defense spending at roughly 150 billion rubles."—*Soviet Military Power 1989*, U.S. Department of Defense.

The tragedy is that unless major changes in the American public's awareness of the danger occurs, the answer will continue to be what it is today—we have no good response when such a *demarche* would be credible from the Soviet Union.

American officials would know at that point that an attack on space vehicles might be followed by limited attacks aimed at neutralization of top U.S. strategic leadership. What would we do if there were also evidence of clandestine dissemination of bacteriological contaminants, such as a new type of flu virus appearing on the United States, perhaps threatening to immobilize the nation just as happened from natural causes in 1917?

Held in reserve, then, as a blackmail threat, with the conviction it would never need to be used, would be the nuclear strike, which everyone would know could in fact be delivered by the Soviet Union at the least expected time, masked by deception and disinformation. Soviet leaders would not need to threaten very much very specifically. Fear would trigger the crisis and might immobilize democratic capitals if the military balance has been allowed to change for the worse.

Under such an anticipated attack, U.S. based ICBM forces, our bomber force, and at least 50 percent of the submarine force in port could be destroyed. The prospects for battle would then focus on the remaining elements of the U.S. submarine force, which might not know too clearly what was happening. Both Moscow and Washington, would know in that circumstance that the limited, ragged response we could then make might be substantially neutralized by a Soviet missile defense system.

It is almost certain in such dire circumstances that U.S. government officials would sense a loss of resolve and will, making it hard for anyone, even the President, to make decisions potentially so disastrous for our people.

The mind recoils from the possibility of this kind of "bolt out of the blue," but the danger is precisely what now may be becoming a reality. Our strategic policy appears to be driven by budget problems and Soviet propaganda about "detente" and peace. All Americans are under enormous pressure to join the surge to weaken U.S. military capability—even the administration, the Congress, the military services, and the Joint Chiefs of Staff, which are already acquiescing in reducing many elements of our military strength. Few seem to be demanding the maintenance of U.S. strategic security—at least on one with the power to take corrective actions. Yet a few years of American slowdown and Soviet military modernization raises the specter of the kind of Soviet victory here outlined.

"The country stands before the necessity of making a cardinal change of direction. This could lead to the right or to the left. In such a dangerous situation, any thing is possible, even a military, fascist takeover."—Andrei D. Sakharov, in the *New York Times*, June 24, 1989.

There is no way to be sure what secretive and dictatorial leadership in Moscow will do some day if faced with the dilemma of seeing the communist system crumble or exploiting its military might to humble the capitalist democracies. The right answer is easy. The United States must avoid sliding into the danger of vulnerability to first strike blackmail and ultimate Soviet geopolitical victory.

THE WORST CRIME

"The worst crime is not to tell the truth to the public."—Winston Churchill, prior to World War II.

Why is Mikhail Gorbachev promoting *glasnost* (openness) and trying to depict the Soviet Union as a friend, not an adversary? Why also does he continue to spend a staggering amount of money on new and advanced arms? The answer is that he is in a race against time.

A front page story in the *New York Times* of March 9, 1989, reported, "Nationalism in the Ukraine, which is the Soviet Union's breadbasket and industrial engine, is surely high on Mikhail Gorbachev's list of nightmares as Soviet leader." There is widespread dissatisfaction among the Ukrainians, just as there are demands for greater freedom in the Baltic states annexed by Stalin, and ethnic unrest in Georgia, Armenia, Azerbaijan, and Uzbekistan.

Dr. Alan Keyes, former U.S. Ambassador to the U.N. under Jeane Kirkpatrick, says the Soviet Union might one day self-destruct under the mounting pressures of ethnic nationalism and economic stagnation. Zbigniew Brzezinski warns that the Soviet economic crisis is worsening and consumer unrest is rising.

Does Gorbachev intend to permit the Communist dream of 70 years to self-destruct? Not very likely! Moreover, is it not possible that those who oppose Gorbachev will seize power, perhaps led by Viktor Chebrikov and his KGB colleagues or the general still in the wings who were ousted by Gorbachev as leaders of the still powerful Soviet armed forces?

Momentous changes are occurring in the USSR, but it is not wise to engage in wishful thinking about fundamental systematic changes for the better. Probably Gorbachev himself cannot predict exactly what will happen, and neither can we.

While it is wise to encourage developments toward economic and political reform in the Soviet Union, it is also clear that a highly militarized one-party dictatorship will be a geopolitical and military threat to the United States. As the facts and photos in this book make clear, the American people must not allow themselves to be lulled by promises from Gorbachev. If Americans are innocent of the truth, our people will be much like the uninformed citizens who blundered into World War II 50 years ago, or the gulleible Americans of the early postwar years who sobered up about Soviet geopolitical ambitions only when confronted with the Berlin Blockade and the Korean War.

"It is absurd to suggest that they must go on spending at anything like the current rate to protect themselves."—Richard Perle, Assistant Secretary of Defense under President Reagan.

The answer is not throwing more dollars at weapons systems but a strategy of maintaining a competitive economic-technical and politico-military balance of power compatible with American economic growth and social stability. The answer is in paying attention to facts about potential conflict and paying the price to protect our security.

Winston Churchill used the words at the beginning of this chapter to describe how he felt about keeping the English people in the dark about Nazi Germany's massive military buildup.

After the war, and millions of casualties later, Prime Minister Stanley Baldwin admitted, "Supposing I had gone to the country and said that Germany was rearming and that we must rearm, does anybody think that this pacific democracy would have rallied to that cry at that moment? I

could not think of anything that would have made the loss of the election from my point of view more certain."

His successor, Neville Chamberlain, was the man who in 1938 spoke of "peace in our time." These short-sighted politically expedient attitudes cannot be tolerated by Americans in the world situation today.

The facts in this book make clear that history may be repeating itself, yet can be changed for the better if Americans are given the facts in time.

"While we hope to move beyond containment, we are only at the beginning of our new path. Many dangers and uncertainties are ahead. We must not forget that the Soviet Union has acquired awesome military capabilities. That was a fact of life for my predecessors, and that's always been a fact of life for our allies. And that is a fact of life for me today as President of the United States."—George Bush, May 12, 1989

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I yield 7 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. I thank the chair. I thank the Senator from Texas for giving me this most ample time. I congratulate him for bringing up this issue so we can have what I think is a most timely and serious discussion. We should begin it now, not later, not after the fact.

Before I get into some of my points, I want to offer a few housekeeping comments, just as did the Senator from Texas.

First, I think it is curious that there are those who say we should not have this debate on this particular bill. I have never noticed this body being overly concerned about germaneness or whether one amendment should go to a particular bill or another one.

This debate is timely. That is the important thing. It is a timely discussion, and I think certainly a case can be made and has been made that this is a good place for this discussion, as to what we are going to do with the money we will have in the future. So I see no problem with bringing it up now. In fact, I think it is essential that we begin this discussion throughout America and between parties and between both bodies in the Capitol.

Awhile ago I could not believe some of the things I was hearing. I could not help but believe it was a revision of history, of the way things actually occurred in the 1980's. You can come up with statistics until you are blue in the face, but I do not think you can disprove that the 1980's happened to be one of the best periods of years we have had in this century. The key statistics are there: Inflation came down, interest rates came down, unemployment came down. So many things were good in the 1980's.

Perhaps you could come up with some statistic here or there to support: "Well, it was not as good as it could have been." But it was good, and the American people thought it was good. They said so in 1984, and they said it

again in 1988. I believe if we will do the right thing to keep our economy growing and our Nation moving, they are going to say the same thing again in 1992 and in the future.

When someone stands up in this body and says the President spent \$298 billion on defense, that's not accurate. The President does not spend one nickel on defense that this institution does not approve and usually cut. We can go back and come up with a lot of statistics on that, too, going all the way back to Jimmy Carter and the Congresses when he was President. The Congress, time and time again, cut his requests.

I do not think we are going to be able to go back and make the 1980's look bad. Let us not talk about history. We are here. It is now. There are some wonderful things happening. Let us talk about how we can take advantage of our current climate.

I do still believe very strongly one comment I heard earlier, that certainly unlimited opportunity is not well served by unlimited government. I believe the Senator from Texas said that. That is what we are talking about.

I do not like for us to call it a peace dividend. I keep reminding myself—the Senator from Florida always says this—peace without freedom is not very much. So if we are going to call it something, let us call it a freedom dividend. With that I feel more comfortable.

The question is: Will there really be a freedom dividend? If so, how and when? As a member of the Armed Services Committee, I can report that we are working on that right now. We are trying to assess the threat. We are trying to see if we can get the Pentagon to help us develop a strategic plan, to see what we can do systematically, cautiously, and capably, looking at what is being done in Eastern Europe, what the Soviets are doing. Are the Soviets going to do what they say they are going to do?

In a lot of important areas there is still a lot to be done. I do not think we should rush headlong into the future. I do think we are going to reduce defense spending. The President, through the Secretary of Defense, already has recommended some changes. But I do not think we are going to get a big chunk of money this year. It is not going to happen even if we cut out major programs. Reductions in spending will spin out over a period of years. If you start trying to get multibillions of dollars this year, you will be cutting into manpower, readiness, and some other very important areas.

We need to emphasize that there is not going to be much of a freedom dividend this year. It is going to be in the outyears, and we need to be careful when we do get it.

Now, what should be done with the money? We will go back to our respective States. I tell you what I hear in

my State, the poorest State in the Nation, by the way. The people down there still do not think that deficits are OK. Back home in Mississippi they still think you must live within your means. I spoke to my State house of representatives just a couple of weeks ago, and I commended them because they do a better job than we do. Poor as they are, with all the many needs they have, the balance their budget every year. And they think we ought to do the same.

So when we start setting these priorities, it is very important that we continue to work at chopping down that deficit and getting rid of the national debt before we start spending this tremendous bonanza that we may or may not have.

Does anybody ever think about the national debt? Would there ever be a consideration of dealing with that national debt or is it just really a non-existent thing up here—too bit to comprehend, so we will forget about it?

At the very minimum let us get the budget deficit down to zero. I still believe that counts. I believe in people power. We can argue back and forth about where we are going to spend our money and what the people would do with it and different types of tax changes, but I just have to wonder: You talk about getting back to the people. That really counts. How about the idea of reducing and eliminating the tax on the incomes of people after they retire? That seems like a good idea.

There are several proposals the Senator from Texas has outlined—places where we can make changes—which we should really consider.

I still maintain that a reduction in the capital gains tax benefits all people. Tell the elderly couple who would like to sell their residence that they are in the upper income bracket and have to pay a tremendous capital gains tax on the sale. That is something on which we should focus.

What about personal exemptions? Percentagewise, we do not give people as much of personal exemption now as we did in the 1940's. I believe in returning the power back to the people and letting them make some decisions about where that money should be spent.

Yes; there are important national priorities. We need to spend money to fight the war on drugs. We are not doing nearly enough there. Crime is a tremendous problem, in the District of Columbia and across the country.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. GRAMM. Mr. President, I yield 1 additional minute.

Mr. LOTT. I thank the Senator. We do have these priorities, but there is plenty of room in the proposal before us to deal with that—a 3- to 5-percent increase a year, a \$30 to \$50 billion increase each year that we can spend for

such priorities. Believe me, if the money is there, the Congress is going to be inclined to spend it. But we must set some priorities and deal with those priorities. That is vital because a lot of what we spend money for is not in the drug area or crime or education or infrastructure it is for private programs like this one. I would urge my colleagues to develop a plan of where we are going with this freedom dividend.

I thank the Senator for the additional time.

Mr. KASTEN. Mr. President, I rise in support of Senator GRAMM's amendment to return the peace dividend to America's families by cutting their taxes. Now more than ever, the working men and women of America need a tax cut.

From 1955 to 1988, the Federal tax burden on middle-income Americans rose twice as fast as their income.

In 1955, a median-income family of four paid annual Federal taxes at a rate of 9 percent; in 1970—16 percent; in 1988—24 percent.

Despite the Reagan tax cuts which reduced income taxes for working families and removed millions of the working poor from the tax rolls, the American family is still overtaxed.

According to the Tax Foundation, a moderate-income family—two workers earning \$45,000 with two dependent children—faces a total Federal tax bill of \$12,938 for 1990. This includes income, payroll, and excise taxes.

These excessive taxes have stuck at the heart of the American family. The costs of child raising—child care costs, health, housing, college education—have increased dramatically. Congress has responded by creating more Government programs for middle-income families, like Head Start and the Act for Better Child Care. These programs require more money—and lots of it—so the tax burden on these families goes up.

We're widening the gap between what Americans earn and what the Government lets them keep—and that's unacceptable.

The emergence of the peace dividend provides an opportunity to turn back this tide. Ideally, we should use the peace dividend to reduce the deficit—but our experience with the Vietnam war dividend shows that Congress will immediately spend it. And more spending will eventually lead to higher tax burdens in the future.

So let's give that money back to the American family. We should further cut marginal tax rates. We should boost incentives to save and invest by enacting a revenue-winning cut in the capital gains tax and expanding IRA's.

We should repeal the Social Security earnings limit on America's seniors and reduce the payroll tax burden on America's working families.

Mr. President, let's turn the peace dividend into an opportunity dividend. Only by restoring control of the economy to individual Americans can we

ensure continued prosperity for all Americans.

I urge the adoption of the Gramm amendment and I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, the first vote will be on the Sasser proposal that states it is the sense of the Senate that funds saved as a result of the reductions in military expenditures shall be used in addressing the problems that we are facing in balancing the budget, in meeting basic needs, and also tax relief for working men and women.

I am very hopeful that that particular proposal will gain as much support as possible when we vote in less than a half-hour.

I believe that if I were writing this resolution, I would certainly have supported working out some figures to bring some life into that particular resolution. Hopefully, the Budget Committee as it moves toward its deliberations, will bring the question of a peace dividend to the floor of the Senate.

But I hope, since no figures are actually established here, we can gain a broad consensus of the Members of the Senate that will support that particular proposal. I think it has identified the areas which the great majority of the Members of the Senate can support. When we get that peace dividend, it will be targeted toward the budget, toward basic needs, and tax relief.

I quite frankly believe that it is justifiable to consider a 7-percent reduction in the military for 1991, and a 5-percent reduction for the 4 years that would follow. That would bring real spending in constant dollars to about \$220 billion, or the \$80 billion savings that the Senator from Tennessee has outlined.

That would bring military spending to where it was during the Eisenhower-Kennedy period, or the Nixon-Ford period; a time when the cold war was still hot, when there were dramatic moments and tensions in the relationship between the United States and the Soviet Union which there are not today. A \$163 billion peace dividend is possible—and I wish we were voting on implementing that very measure this afternoon.

I think quite frankly it is justified, and I find it difficult, quite frankly, to understand why those that are supporting the Gramm measure equivocate on whether there is one.

As members of the Armed Services Committee, we heard the former three chairmen of the Joint Chiefs of Staff, all under President Reagan, say that the threat of military conflict has been substantially reduced. Three former Secretaries of Defense have stated the same.

There is not a hard-core Communist government left in Eastern Europe.

The threat in the Persian Gulf has changed dramatically. Soviet troops are out of Afghanistan. There is movement in South Africa, and we have seen extraordinary changes in Central America.

Everything has changed around the world except President Bush's military budget. Everything, Mr. President. It is like nothing has happened around the world. It is like nothing has happened.

Why are we so reluctant to say that there has been a dramatic change, and it ought to be reflected in the size of our military budget?

We know that with these dramatic changes you year those who say, well, they may be reversible. How are you going to reverse what has happened in Eastern Europe now? How are we going to see those kinds of alterations and changes?

We have had impressive testimony before the Armed Services Committee that said even if you are going to, President Gorbachev is not going to be out of office tomorrow. And if you put the hardest hardliner in the Soviet Union in office, it would be 2 to 3 years before the Soviet Union could be back to where they were just over a year ago.

Mr. President, we have extremely important needs. Obviously, the needs are here at home. I find the underlying premise of the Gramm proposal troublesome. I appreciate his willingness to support the Sasser proposal, but I find it difficult to justify the logic of his presentation when we have seen the major tax cuts that have gone to the wealthiest individuals in our society.

Obviously, we are going to have to deal with our budgetary considerations. But effectively, in supporting the Gramm proposal, you are saying, all right Mr. Average Hard-Working American, you are going to pay your taxes, and do you know something? If we get a little surplus it is going to go to offset those reductions we have had for the wealthiest individuals in America.

I just find that is troublesome. It is not warranted or justified.

I hope, Mr. President, that we will have a serious opportunity to debate this issue. I was impressed by the strong support for the peace dividend from the chairman of the Budget Committee. I identify myself with those remarks. I think we can see a very substantial dividend that should be reflected in the ways that the Senator from Tennessee has outlined in his proposal.

I am hopeful we will get a debate and that we will begin to accommodate American defense policy with the realities of the world today, and give the average working American, hard-working American taxpayer, a really important break.

I reserve the remainder of my time.

Mr. GRAMM. Mr. President, how much time do I have?

The PRESIDING OFFICER. Eight minutes and two seconds.

Mr. GRAMM. I yield 6 minutes to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, may I be advised when I have used 4½ minutes of my time?

Mr. President, I am delighted to be an original principal cosponsor of the Gramm amendment, but as I told him, I confess a reservation about it. I just do not want to encourage all of these people who are trotting around talking about a peace dividend, as if the Congress was somehow coming into a windfall of money.

The fact is that we may not spend as much money on defense in the future as we once planned, but that is in no way a dividend. It reminds me, I say to the Senator from Texas, of the PTA meeting down in my little hometown of Monroe when I was a boy. They had a report from the treasurer. She said, "I must advise all of you that we have a \$200 deficit. What are we going to do about it?"

One lady raised her hand and she said, "I want 50 percent of it to go to Red Cross; 25 percent to go to the Salvation Army; and we'll use the rest of it to have ourselves a party."

That is what the Congress is doing. We are even, with this bill, adding yet another Federal program that is going to cost the taxpayers dearly. That is exactly the wrong way to go. I am glad to be a cosponsor of Senator GRAMM's amendment.

If savings are to be realized in the coming years as the result of the events in Europe, the Soviet Union, Central America, et cetera, we have to determine whether we are going to take advantage of those savings to expand economic opportunity and to get the Federal Government off the backs of the people of the United States.

Mr. President, in the area of domestic policy, I think we can identify two problems that are the cause of most other domestic problems: First, the growth of the Federal debt; and second, the breakdown of the traditional American family.

If our country is to remain a great power, we must continue to restrain and reduce the growth of Federal spending until the Federal Government achieves a balanced budget. It is imperative that the Federal debt be reduced.

Let me tell you something. Because of that profligacy of the U.S. Congress—and this is the place where the Federal deficits are created; this is the place that the Federal debt was run up—because of Congress, the tax burden on the American people has become absolutely outrageous.

I have to read some figures to you. Since 1955, the tax burden on most Americans has gone up twice as rapid-

ly as their income, and you can rest assured that they know it.

Senator KASTEN, bless his heart, pointed out recently that on the average, a median-income family of four in the year 1955 paid Federal taxes of 9 percent of the family income.

In 1970, it was 16 percent of the family income. In 1988, it was 24 percent.

That is a trend we must reverse, rather than talking about how we are going to spend this so-called peace dividend. There "ain't no such animal," Mr. President, and we ought to "fess up and level with the American people and stop talking nonsense.

Mr. President, we must foster public policies that will promote strong, traditional families. As that is done, I'm confident that we can more effectively address other major societal problems, such as illegal drug use and the poor quality of public education.

The Gramm amendment makes it clear that we can meet the needs of the people of this country better by strengthening the family rather than by expanding the government. I commend my friend from Texas.

Mr. GRAMM. Mr. President, I believe I have a couple minutes. I want to sum up and be brief. I understand there will be no remarks on the other side, so we can move on the votes.

Mr. President, we have two resolutions before us, and they are fundamentally the same, except in one way. Both talk about balancing the budget, about a commitment to do that without counting the Social Security trust fund. Both talk about cutting taxes. Senator KENNEDY raises concerns about which taxes. I list the taxes: Refundable child care tax credits; repeal of Social Security earnings test; increase the personal exemption; expand and make permanent the R&D tax credit; a long-term capital gains tax cut; lower marginal rates, and other saving and investment incentives.

Mr. President, where the difference comes is in the provision of the Kennedy-Sasser proposal, which proposes, as the alternative, Government spending money.

Mr. President, on the proposal that I have made, the growth of government would be limited by the growth of the economy. The Government could not grow faster. If the economy grew at 3 percent a year, so would the Government. If it grew by 5 percent, Government would grow by 5 percent.

Under the Sasser proposal, Government would be a beneficiary of the peace dividend, setting the predicate to move out, as we did in the post-Vietnam era, when \$380 billion in defense cuts were spent, and the deficit still went up and taxes still went up.

So, Mr. President, I am going to vote for the Sasser amendment, because two out of three is not bad. But if you want a chance to vote, to say the peace dividend ought to go back to American families, there is only one way you can get it: Vote for the Gramm resolution.

Mr. KENNEDY. Mr. President, I understand Senator KERREY wishes to speak. I yield him 3 minutes.

Mr. KERREY. Mr. President, the amendment offered by the Senator from Texas is a little difficult for me to understand. I begin my budget decisions trying to justify every single dollar made. Sometimes I vote for things not in Nebraska. Sometimes I vote for things that are in Texas, because I believe, for example, the space station is justified as a national investment. I try to justify each and every dollar that is spent.

The dilemma I have, listening to the proposal and to the comments being made on the other side, is that it seems to me that we are being dishonest, fundamentally, with the American people, because we are not generating a dividend here. We begin with \$800 billion that we are going to generate in taxes this year, and then we are going to borrow \$200 billion more and give the American people the proceeds.

The fundamental assumption contained in the proposal offered by the Senator from Texas is that the American people have sacrificed a great deal in the eighties. I offer, Mr. President, that we have taken them off the hook. We have let them borrow, and we are telling them borrowing is the same thing as paying for it with tax revenue. It is not. We have created this debt. It made it necessary for us to consider the kind of resolution that is being offered by the Senator from Tennessee that forces us to consider that balancing the budget will in fact accrue benefits to the poor of this country.

The other part of the resolution offered by the Senator from Tennessee is that the American people understand who, in fact, has sacrificed in America in the eighties, who has paid the price in the eighties for the recovery, who has in America been tightening their belts in the eighties, so that we can recover.

It has been the working poor and the middle class, and the amendment offered by the Senator from Tennessee addresses those people who have sacrificed the most. The resolution or amendment offered by the Senator from Texas perpetuates a myth that at some point, Mr. President, we in this Congress and in this Senate are going to have to stop agreeing to.

Mr. KENNEDY addressed the Chair. The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I ask unanimous consent that it be in order to ask for the yeas and nays on both these proposals.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. I yield back the remainder of my time.

VOTE ON AMENDMENT NO. 1274

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 1274, of the Senator from Tennessee. The yeas and nays have been ordered. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

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

The result was announced—yeas 79, nays 19, as follows:

(Rollcall Vote No. 21 Leg.)

YEAS—79

Adams	Ford	McClure
Armstrong	Fowler	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Boren	Gramm	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Hollings	Reid
Burns	Inouye	Riegle
Byrd	Johnston	Robb
Coats	Kasten	Rockefeller
Cochran	Kennedy	Sanford
Cohen	Kerry	Sarbanes
Conrad	Kohl	Sasser
Cranston	Kohl	Shelby
D'Amato	Lautenberg	Simon
Daschle	Leahy	Specter
DeConcini	Levin	Symms
Dixon	Lieberman	Thurmond
Dodd	Lott	Wirth
Durenberger	Mack	
Exon	McCain	

NAYS—19

Bond	Helms	Rudman
Chafee	Humphrey	Simpson
Danforth	Jeffords	Stevens
Dole	Kassebaum	Wallop
Domenici	Lugar	Warner
Garn	Murkowski	
Grassley	Roth	

NOT VOTING—2

Matsunaga	Wilson
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So the amendment (No. 1274) was agreed to.

Mr. BOND. Mr. President, I rise today to say a few words about the amendment of my good friend from Texas.

Senator GRAMM, along with his famous partners RUDMAN and HOLLINGS, did this country a great service when he pushed through his plan to help move us toward a balanced budget. I believe his ideas were sound then, and I believe we should give full support to his ongoing efforts to preserve the only spending discipline we have.

However, I am not sure if the amendment he proposes today continues us down that deficit-reduction path.

My reading of the purpose of GRH is that it sets a minimum rate of deficit reduction for Congress to meet. All the penalties are for not meeting the minimum; all the incentives are aimed

at moving as quickly as possible to a balanced budget.

Unfortunately, the targets, along with the \$10 billion fudge factor, has become a maximum deficit-reduction target. And when we consider accounting gimmicks, and one-time savings, the maximum is lowered to one-half of the original target.

I'm not sure why I should be surprised that Congress lacks the will to do any better than that—but I don't believe we should encourage ourselves by stating that as long as we skin by and meet the deficit-reduction targets that we can then spend any additional savings from the mystic peace dividend.

This is like telling the dieter that if they meet their weekly weight loss goal by Thursday, they can go back to binging until Sunday.

That is simply the wrong way to go.

Instead, we should use any savings from the so-called peace dividend to make the GRH targets into a minimum, rather than a maximum—who would be hurt if we got to a balanced budget sooner rather than later? And who would ever believe that Congress would get something done on time, much less early.

Personally, I believe all savings should go directly into deficit reduction, and then, once we have finally balanced the budget, the funds should go to retiring our massive Federal debt.

I am a firm believer in Government's setting priorities. As Governor of Missouri I faced fiscal difficulties when I came into office. But I made some tough decisions, and we brought the books back into balance—and funded some new needed priorities at the same time.

Our problem here is that while we are very good at crafting new solutions, we are terrible at letting go of programs that don't work or have become outdated. So, while I support many of the goals of my friend Senator GRAMM, I do not think we should approve his amendment here today.

Savings from defense should be savings—not redirected spending. No matter how worthy the new cause, no matter how attractive the tax cut.

Otherwise, the debt—the interest payments on which are now our third largest Federal program—will continue to haunt us and our children for decades rather than years.

VOTE ON AMENDMENT NO. 1270, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1270, as modified. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

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

The result was announced—yeas 48, nays 50, as follows:

(Rollcall Vote No. 22 Leg.)

YEAS—48

Armstrong	Gramm	McConnell
Baucus	Grassley	Murkowski
Biden	Harkin	Nickles
Boschwitz	Hatch	Packwood
Breaux	Heflin	Pressler
Burns	Heinz	Reid
Coats	Helms	Roth
Cochran	Humphrey	Rudman
D'Amato	Kasten	Shelby
Dixon	Levin	Simpson
Dole	Lieberman	Specter
Domenici	Lott	Stevens
Durenberger	Lugar	Symms
Exon	Mack	Thurmond
Garn	McCain	Wallop
Gorton	McClure	Warner

NAYS—50

Adams	Dodd	Leahy
Bentsen	Ford	Metzenbaum
Bingaman	Fowler	Mikulski
Bond	Glenn	Mitchell
Boren	Gore	Moynihan
Bradley	Graham	Nunn
Bryan	Hatfield	Pell
Bumpers	Hollings	Pryor
Burdick	Inouye	Riegle
Byrd	Jeffords	Robb
Chafee	Johnston	Rockefeller
Cohen	Kassebaum	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerry	Sasser
Danforth	Kerry	Simon
Daschle	Kohl	Wirth
DeConcini	Lautenberg	

NOT VOTING—2

Matsunaga	Wilson
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So, the amendment (No. 1270, as modified) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Republican leader is recognized.

AMENDMENT NO. 1275

(Purpose: To improve the bill)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself, Mr. MCCAIN, Mr. KASTEN, Mr. HATCH, Mr. DOMENICI, Mr. COHEN, Mr. PRESSLER, Mr. WARNER, and Mr. RUDMAN, proposes an amendment numbered 1275.

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

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

The amendment is as follows:

On page 7, line 11, insert "an individual with a disability," before "and".

On page 15, lines 17 and 18, strike out "handicapping conditions" and insert in lieu thereof "disabilities".

On page 20, lines 23 and 24, strike out "handicapping conditions" and insert in lieu thereof "disabilities".

On page 29, lines 24 and 25, strike out "handicapping conditions" and insert in lieu thereof "disabilities".

On page 30, line 21, after "sites," insert "accommodations for individuals with disabilities".

On page 31, lines 24 and 25, strike out "handicapping conditions" and insert in lieu thereof "disabilities".

On page 34, line 16, strike out "handicapped conditions" and insert in lieu thereof "disabilities".

On page 35, line 4, strike out "handicapped individuals" and insert in lieu thereof "individuals with disabilities".

On page 44, line 2, after "sites," insert "accommodations for individuals with disabilities".

On page 49, line 11, strike out "handicapping conditions" and insert in lieu thereof "disabilities".

On page 53, line 3, strike out "handicapping conditions" and insert in lieu thereof "disabilities".

On page 53, line 4, strike out "and" and insert in lieu thereof a semicolon.

On page 53, line 9 after the semicolon insert "and".

On page 53, between lines 9 and 10, insert the following new subparagraph:

"(C) service in programs to assist elderly, disabled, poor, and homeless individuals obtain meaningful employment;"

On page 63, between lines 6 and 7, insert the following new subsection:

(d) ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES.—In accordance with the nondiscrimination provisions of section 174, each training program shall provide reasonable accommodations for individuals with disabilities.

On page 70, line 5, strike out "handicap" and insert in lieu thereof "disability".

On page 79, line 19, strike out "handicap" and insert in lieu thereof "disability".

Mr. DOLE. Mr. President, I spoke earlier this week on the importance of ensuring that individuals with disabilities be involved in national service programs as volunteers, not just as recipients. The amendments which I am offering have been agreed to on both sides of the aisle and will guarantee that these citizens are given the opportunity to participate fully in any national service initiative.

My proposal will amend this legislation to include "a person with a disability" under the definition of an adult volunteer and add "individuals with disabilities" to the list delineating program participants.

It will also modify that portion of the bill which suggests the types of national service that may be made available under national service demonstration programs, to include programs that assist those who are elderly, disabled, poor, and homeless in obtaining meaningful employment.

People with disabilities are eager and ready to contribute yet still face discrimination and lack of accessibility.

Another amendment under my proposal will make the 3-week training program required by this legislation accessible wherever appropriate for individuals with disabilities.

The responsibility to support people with disabilities begins and ends where it does with everyone else. These amendments will send a signal that

people with disabilities, like everyone else, have the knowledge and skills to make a difference in their communities.

Finally, Mr. President, where the bill refers to individuals, or participants, with "handicapping conditions," my proposal would substitute the term "with disabilities" wherever the term "with a handicapping condition" occurs. The usage of the term "with disabilities" is consistent with language found in the Rehabilitation Act of 1973 and the Fair Housing Act, as well as disability related legislation pending before Congress, including the Americans With Disabilities Act and the Education of the Handicapped Act. This important change in terminology will bring outdated terminology up-to-date with state-of-the-art policy for people with disabilities.

Mr. DOMENICI. Mr. President, I am pleased to cosponsor Senator DOLE's amendment designed to ensure that people with disabilities will be able to fully participate in the service programs of this bill. When we think of community service, almost automatically we think of the importance of helping the disadvantaged, and this thought usually includes helping people with disabilities.

Too often we forget that people with disabilities have a great many abilities as well. I commend Senator DOLE for putting together this excellent amendment recognizing that people with disabilities often have much to contribute to their fellow citizens and their communities, and we should make sure they get that opportunity.

Mr. President, over the years I have had the pleasure to meet with many of my New Mexico constituents who have disabilities, and have heard much about their struggle to have their capabilities, and willingness to contribute, be accepted and understood by society. I think we would be remiss if we failed to assure that in this bill the disabled are given as much an opportunity as possible to participate in helping others. I urge the Senate to adopt this amendment.

Mr. KENNEDY. Mr. President, this is a very worthwhile and useful amendment. We had intended that all those with disabilities would be able to participate in this program. This makes it extremely explicit. I think it is an important addition.

I commend the Senator for offering this amendment. I hope the Senate will accept it.

The PRESIDING OFFICER. Is there further debate? The Senator from Utah.

Mr. HATCH. I compliment the distinguished Senator from Kansas. This amendment will assure that disabled persons can work as volunteers as well as the recipients of service.

Mr. President, I support the amendment offered by the distinguished Republican leader. After working so closely with all of our colleagues to develop the Americans with Disabilities

Act, I think it is only fair that the suggested changes be incorporated.

Many of those with disabilities have been great examples of courageous service. Despite their limitations, I have been amazed at stories I have heard of those who are not afraid to go beyond what is expected to make their lives worthwhile. Those with disabilities have a great understanding of service.

This amendment acknowledges that understanding and ensures even greater access to service opportunities for all Americans.

So again, thanks to the distinguished Republican leader, we are willing to accept this amendment. We think it is a terrific amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 1275) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, on behalf of myself, the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Indiana [Mr. COATS], Mr. GORTON, Mr. GRAMM, Mr. LOTT, Mr. MCCAIN, and Mr. MCCLURE, I am about to send an amendment to the desk. But pending that, I am advised I am going to yield the floor to the Senator from Washington.

AMENDMENT NO. 1276

Mr. GORTON. I thank the distinguished Senator from Colorado.

I have an amendment at the desk for which I ask immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Washington [Mr. GORTON] proposes an amendment numbered 1276.

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

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

The amendment is as follows:

At page 46 of the substitute amendment, line 19 after "program," insert the following: "for which a grant has been made to the Secretary of Agriculture, Secretary of Interior, or the Director of ACTION."

Mr. GORTON. Mr. President, this amendment simply corrects an anomaly which was overlooked by the drafters and removes a risk of tort liability for the actions of State employees which was not meant, I understand, to be included in the bill.

I have checked it with both the majority floor manager of the bill and the minority floor manager of the bill, and they agree.

Mr. KENNEDY. Mr. President, the Gorton amendment clarifies the

extent to which the Federal Tort Claims Act is applicable to Conservation Corps participants under the act. We think that is a useful clarification. I urge that the Senate accept the amendment.

Mr. HATCH. Mr. President, I agree with the distinguished Senator from Massachusetts and the distinguished Senator from Washington. He is doing a very good service here, and we accept the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1276) was agreed to.

Mr. GORTON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1277

(Purpose: To provide that any program receiving grants provided under the National and Community Service Act of 1990 is subject to Drug-Free Workplace Requirements for Federal Grant Recipients)

Mr. HATCH. Will the distinguished Senator from Colorado yield to me to send an amendment to the desk?

Mr. ARMSTRONG. Of course.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH.]

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. D'AMATO, proposes an amendment numbered 1277.

Mr. HATCH. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide that any program receiving grants provided under the National and Community Service Act of 1990 is subject to Drug-Free Workplace Requirements for Federal Grant Recipients)

at the appropriate place in the bill insert the following: "All programs receiving grants provided under this Act shall be subject to the Drug-Free Workplace Requirements for Federal Grant Recipients under section 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702-707)."

Mr. HATCH. Mr. President, I have sent this amendment to the desk on behalf of my colleague from New York [Mr. D'AMATO]. This amendment clarifies that all programs receiving funds under the act will be subject to the drug-free workplace requirement for Federal grant recipients.

I understand this amendment has been cleared on both sides and I want to thank Senator D'AMATO for clarifying this issue.

Mr. D'AMATO. Mr. President, my amendment makes it clear that all programs receiving grants provided under the National Community Serv-

ice Act of 1990 will be subject to the drug-free workplace requirements for Federal grant recipients that we included in the Anti-Drug Abuse Act of 1988.

The drug-free workplace requirements in the Anti-Drug Abuse Act of 1988 are intended to prohibit the awarding of a Federal grant to any organization that does not take specific steps to provide a drug-free workplace. It provides for suspension or termination of any grantee found to be in violation.

The drug-free workplace requirements of the Act of 1988 specifically provide that grant recipients must insure that they will provide a drug free workplace by: notifying all employees that the illegal manufacture, distribution, dispensation, possession, and use of a controlled substance is prohibited; and establishing a drug-free awareness program designed to inform employees about the perils of drug-abuse in the workplace, counseling and educational programs designed to address this problem, and the penalties and sanctions which may be imposed upon violators.

By applying these requirements to grants awarded under the National and Community Service Act of 1990 this amendment also requires that grantees make a good-faith and thorough effort to maintain a drug-free workplace, and cooperate with granting agencies to insure that all policies designed to promote drug prevention in the workplace are followed.

This amendment also makes it clear that Federal agencies may suspend payments or terminate grants for those recipients who do not comply with the act.

Making any program receiving grants provided under the National Community Service Act of 1990 subject to the Drug-Free Workplace requirements will certainly strengthen the act, and, because of the additional accountability imposed, it should enhance our present drug strategy initiatives aimed at eliminating drugs from the workplace.

Mr. HATCH. I urge adoption of the amendment.

Mr. KENNEDY. Mr. President, I support the amendment and urge the Senate to accept it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1277) was agreed to.

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1278

Mr. HATCH. Mr. President, will the Senator from Colorado yield for just one more amendment.

Mr. ARMSTRONG. Sure. Yes, of course.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, I send an amendment to the desk to modify language under title III of the substitute. This amendment has been cleared. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], proposes an amendment numbered 1278.

Mr. HATCH. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At page 111, of the substitute offered by Senator Kennedy, strike all after line 12 through and including line 15, page 115, and insert in lieu thereof the following:

SEC. 302. AUTHORITY.

(a) The President is authorized to designate a private, nonprofit organization (hereafter referred to as the Foundation) to receive funds pursuant to section 401(a)(7), upon his determination that such organization is capable of carrying out the undertaking described in section 302. Any such designation by the President shall be revocable.

(b) Nothing in this Act shall be construed either (i) to cause the Foundation to be deemed an agency, establishment, or instrumentality of the United States Government, or (ii) to cause the directors, officers or employees of the Foundation to be deemed officers or employees of the United States.

SEC. 304. GRANTS TO THE FOUNDATION.

(a) Funds made available pursuant to sections 303 and 401(a)(7) shall be granted to the Foundation by a department or agency in the executive branch of the United States Government designated by the President—

(1) to assist the Foundation in carrying out the undertakings described in section 302; and

(2) for administrative expenses of the Foundation.

(b) Notwithstanding any other provision of law, the Foundation may hold funds granted to it pursuant to this Act in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a) of this section, and may retain for such purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

Sec. 306. ELIGIBILITY OF THE FOUNDATION FOR GRANTS.

(a) Grants may be made to the Foundation pursuant to this Act only if the Foundation agrees to comply with the requirements specified in this Act. If the Foundation fails to comply with the requirements specified in this Act, additional funds shall not be released until the Foundation brings itself into compliance with these requirements.

(b) The Foundation may use funds provided by this Act only for activities and programs consistent with the purposes set forth in sections 302 and 304.

(c) The Foundation shall not issue any shares of stock or declare or pay any dividends.

(d) No part of the funds available to the Foundation shall inure to the benefit of any board member, officer, or employee of the Foundation, except as salary or reasonable

compensation for services or expenses. Compensation for board members shall be limited to reimbursement for reasonable costs of travel and expenses.

(e) No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation that affects his or her financial interests or the financial interests of any corporation, partnership, entity, or organization in which he or she has a direct or indirect financial interest.

(f) The Foundation shall not engage in lobbying or propaganda for the purpose of influencing legislation, and shall not participate or intervene in any political campaign on behalf of any candidate for public office.

(g) During the second fiscal year in which funds are granted to the Foundation pursuant to this Act, the Foundation shall raise from private sector donations an amount equal to at least one-fourth of any funds granted to the Foundation pursuant to this Act in that fiscal year. Funds shall be released to the Foundation during the fiscal year only to the extent that this matching requirement has been met.

(h) The accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by subsection (i) of this section.

(i) So long as the Foundation is receiving grants pursuant to this Act, the accounts of the Foundation may be audited at any time by any agency designated by the President. The Foundation shall keep such records as will facilitate effective audits.

(j) So long as it is receiving grants pursuant to this Act, the Foundation shall be subject to appropriate oversight procedures of the Congress.

(k) The Foundation shall ensure—

(1) that any recipient of financial assistance provided by the Foundation from funds granted pursuant to this Act keeps separate accounts with respect to such assistance and such records as may be reasonably necessary to disclose fully (i) the amount and the disposition by such recipient of the assistance received from the Foundation, (ii) the total cost of the project or undertaking in connection with which such assistance is given or used, (iii) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and (iv) such other records as will facilitate effective audits; and

(2) that the Foundation, or any of its duly authorized representatives (including any agency designated by the President pursuant to subsection (i) of this section), shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to assistance provided from funds granted pursuant to this title.

(l) The Foundation shall submit to the President and to the Congress an annual report, which shall include a comprehensive and detailed description of the Foundation's operations, activities, financial condition, and accomplishments for the preceding fiscal year. This report shall be submitted not later than three months after the conclusion of any fiscal year in which the Foundation receives grants pursuant to this Act.

Mr. HATCH. Mr. President, the amendment has been agreed to, and I urge its adoption.

Mr. KENNEDY. Mr. President, we have looked at the legislative language surrounding the Points of Light Initiative Foundation that was proposed by the White House. These are good changes that add important provisions with respect to lobbying, conflict of interest, and accountability, and I am pleased to urge the Senate accept the amendment.

The PRESIDING OFFICER. Is there further debate on amendment 1278? If not, the question is on agreeing to the amendment.

The amendment (No. 1278) was agreed to.

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. HATCH. I thank my colleague from Colorado.

AMENDMENT NO. 1278

Mr. ARMSTRONG. Mr. President, on behalf of a number of colleagues, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read it.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG), for himself, Mr. BOSCHWITZ, Mr. COATS, Mr. GORTON, Mr. GRAMM, Mr. LOTT, Mr. MCCAIN, and Mr. MCCLURE, proposes an amendment numbered 1278.

Mr. ARMSTRONG. Mr. President, ordinarily at this point I would suggest that we dispense with reading of the amendment, but I think it would be appropriate to read it. It is only about 4 or 5 lines long, and it well expresses the intent and purpose of the amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

Sec. . Section 1-2503 of the District of Columbia Code (1981 edition) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) Nothing in this chapter shall be construed to bar any organization or entity from denying, restricting, abridging, or conditioning the participation of any adult homosexual person or adult bisexual person in any program or activity that—

(1) educates, coaches, or trains any minor, or

(2) holds out the adult as a role model, mentor, or companion to any minor."

Mr. ARMSTRONG. Mr. President, when I learned a few months ago that the District of Columbia had in effect forced the Big Brothers of America organization to admit homosexuals into their counseling program, I must say I was dumfounded. In fact, my first reaction was to disbelieve, in fact, that it was happening.

There were some published articles to that effect at the time, and I asked my staff to look into it. I discovered that this relevant provision of the

D.C. Human Rights Act was exactly that effect, and that the D.C. government, in fact, is vigorously enforcing it.

I think my colleagues know that the purpose of the Big Brothers of America is to match adult volunteers with boys who need role models. Big Brothers of the National Capital Area has had a policy of rejecting any applicant who wishes to be a Big Brother if the applicant is homosexual.

Last fall, under pressure from the D.C. department that enforces the Human Rights Act, Big Brothers of the National Capital Area changed its policy and began accepting homosexuals.

I ask unanimous consent, Mr. President, that there be inserted in the Record at this point a brief news item taken from the Washington Post of October 24, 1989, which discusses this issue.

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

[From the Washington Post, Oct. 24, 1989]

BIG BROTHERS SHIFT RULES

The Big Brothers of the National Capital Area has altered a policy under which it rejected the applications of homosexuals who volunteered to serve as role models for youngsters, officials of the organization said.

Under a vote taken last week by the private organization, the determination for matching a youngster with a volunteer is to be left to the youngster's mother, Big Brothers officials said.

In August, the D.C. Office of Human Rights decided to investigate a complaint filed by a Greenbelt man who alleged that the Big Brothers excluded him because he is homosexual.

The man alleged that the group violated a D.C. law prohibiting discrimination against homosexuals by employers and public accommodations.

A Human Rights Office spokeswoman said in August that the agency had categorized Big Brothers as a "place of public accommodation."

United Press International quoted an official of the Gay and Lesbian Activist Alliance of Washington as expressing satisfaction yesterday that Big Brothers "will finally allow gay men to contribute to the community as they would anyone else."

Mr. ARMSTRONG. Mr. President, my amendment simply will allow Big Brothers and other similar organizations in the District of Columbia to set their own policy without coercion from the City Council with respect to the participation of adult homosexuals or bisexual persons in such programs or activities.

Mr. President, in a sense, it was tempting for me and for my cosponsors to simply forbid such participation, but to do so would in effect make the mirror-image mistake of judgment and public policy that the D.C. City Council is making. They have a coercive policy which says if you are going to have a volunteer organization that works with young people, you have to admit and permit homosexuals to participate and to be role models.

We are not saying that they may not have such persons, though it would be my earnest hope that homosexual persons would not be placed in such capacities or roles where impressionable young people would see them as role models.

We are just simply saying that this particular provision of the District of Columbia Code will not require or could coerce or force Big Brothers in similar organizations to do so.

We just would be absolutely clear about that. If my amendment is adopted Big Brothers could keep its current policy, revert to its former policy, or adopt some other policy. It leaves the option to the volunteer organizations affected.

Mr. President, let me also make it clear that the amendment is not as broad or sweeping as some might desire in that it deals only with adults, only with those adults who work with minors, and only with adults who are in the District of Columbia. We are not trying to set out to chart new policy for some broad-gauged agenda nationwide. We are only dealing with a volunteer organization situation that is not speculative, that has arisen, that is a present problem in the District of Columbia where Congress has the legislative jurisdiction.

If some State government is foolish enough to adopt a similar policy, that is up to the voters of that State. If some city council in Colorado or Utah or Massachusetts or somebody somewhere decides to do it, that is up to them. Our responsibility is over the District of Columbia.

It fits on this bill because this is a bill about voluntarism. But I have deliberately tried to draft an amendment which is narrow in its scope and application, which is implemented to a clearly defined specific abuse, and is not hypothetical or speculative in nature.

Mr. President, with that word of explanation, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I hope the Senate will not accept the amendment of the Senator from Colorado. We have been over this issue over the period of the last 2 years. There has been no request to us from the District or from any of the groups in the District. Each State writes its own laws in terms of tax exemptions and human rights. So does the District of Columbia.

This amendment says we will only apply this to the District of Columbia, and we will let the rest of the States do whatever they want. If it is sauce for the goose, it ought to be sauce for the gander. If the Senate wants to preempt all State laws, that is one thing. But this is only targeted to one jurisdiction. That is the District of Columbia.

We have had no request from any of the voluntary organizations indicating that this is a problem.

So I think it is particularly intrusive. Therefore, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ARMSTRONG. Mr. President, will the Senator withhold?

Mr. KENNEDY. I am glad to yield. I hold the floor.

The PRESIDING OFFICER. Is the motion withdrawn?

Mr. KENNEDY. Yes.

I am glad to yield.

Mr. ARMSTRONG. Mr. President, I thank the Senator.

The distinguished Senator from Massachusetts, who is the manager on behalf of the Democrats, makes a couple of points that deserve to be answered. He points out there had been no request for legislation from the D.C. government. Of course, that is true because of the very abuses we are trying to correct are not only agreed to but, in fact, are caused by and are vigorously insisted upon by the D.C. city government. What we are doing is seeking to amend the human rights code of the District of Columbia.

The Senator from Massachusetts points out that this is a matter that we have considered before in this Chamber. That is correct. On a previous occasion, in fact on a couple, I have asked the Senate, with a narrowly drawn amendment, to preclude the District of Columbia from forcing religious institutions to grant to homosexual organizations on colleges campuses, on the campuses of religious institutions within the District of Columbia, or to impose requirements that they be given recognition or material support. In fact, at my request and on my motion, the Senate has done so. It has been enacted. It is the law of the District of Columbia.

Why, if that has been done, do we need this? The reason is when I offered the amendment previously, I only addressed the then existing abuse. I did not seek to repeal the entire D.C. statute, though, if I were a member of the D.C. City Council, that is exactly what I would seek to do. But, instead, I simply aimed at what was on the table without speculating with other problems that might subsequently arise.

This is a problem which has subsequently arisen. In other words, I did not know at the time—in fact, I cannot imagine that any Senator would have foreseen, that the District of Columbia would enact an ordinance, and then vigorously prosecute the ordinance, the effect of which is to force a volunteer organization, which is seeking to do a worthy and important work to help young boys who need role models, to force upon them against their will to admit into the capacity of counselor and role model homosexual persons.

Again, I have not offered to make this a broad-gauged, sweeping amendment that solves a lot of problems that have not arisen. I am only addressing the problem that we know about. It is real. It is not hypothetical. It is a great injustice. It is abhorrent. It seems to me that there should be little dispute about the need to amend this section of the D.C. Code.

Finally, let me address the point that somehow the Senator thinks that it is unfair to do this only for the District of Columbia; that we are letting other States make their own arrangements. I just want to point out that while some think of the District of Columbia as a State, I do not think that. Maybe it will be someday. But in the meantime, it is something other than a State, and we treat it legislatively quite differently than we treat the respective States which retain at least, in some respects, a degree of sovereignty. Under the Home Rule Act, as well as under the Constitution, Congress is the legislative body for the District of Columbia in much the same way that the General Assembly of Colorado is the legislative body for my State.

So we have a legislative jurisdiction. We know what the problem is. We have a clear responsibility to act on it. If the Senator persists in his intention to table my amendment, I hope we will vote down the tabling motion.

The PRESIDING OFFICER. The Senator from Massachusetts (Mr. KENNEDY) is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. Mr. President, as I mentioned before, this is limited just to the District of Columbia. We have taken action relevant to this a little over a year ago. The issue that was raised was at Georgetown University on a particular group that was on the campus. Georgetown University explicitly has indicated that it does not wish to have this kind of legislative interference, and the issue has been resolved satisfactorily, as I understand it, at the university, and it has explicitly requested that there not be this kind of Federal intrusion. Therefore, I move to table the amendment.

Mr. ARMSTRONG. Will the Senator yield for a question? I think he misstates the situation.

Mr. KENNEDY. Mr. President, I yielded earlier, and this amendment now just came on 10 minutes ago. We have been on the floor now for 3 days, and I move to table.

Mr. ARMSTRONG. Mr. President, will my colleague care to withhold that motion?

Mr. KENNEDY. I yield for a question.

Mr. ARMSTRONG. Mr. President, I have two or three questions I want to raise. I believe the Senator actually does not understand the intention of the amendment, because it has nothing to do with Georgetown. That issue is settled. A statute has been enacted on it. This has nothing to do with any college or university.

The PRESIDING OFFICER. We have a motion to table, which is not debatable.

Mr. KENNEDY. I am going to persist in the motion, Mr. President.

The PRESIDING OFFICER. The question then is on the motion.

Mr. ARMSTRONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. 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. ARMSTRONG. Mr. President, I believe my colleague from Massachusetts has graciously consented to withhold his motion to table.

The PRESIDING OFFICER. There is a motion to table.

Mr. ARMSTRONG. I believe it is the Senator's intention to withhold or withdraw that motion.

Mr. KENNEDY. Mr. President, I withhold that motion.

The PRESIDING OFFICER. Without objection, the motion is withdrawn. The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, my only desire is to clarify an unintentional misunderstanding. The Senator mentioned that this had not been requested by Georgetown or by any university. That is correct. This has nothing to do with the Georgetown case. That has been settled.

Congress has enacted a statute which, in effect, preempts a similar section of the D.C. Human Rights Code, because the D.C. City Government has imposing really what, in the opinion of an overwhelming majority of Members of this Chamber, was an intolerable and unfair burden on the universities.

This has nothing to do with that. This addresses a similar abuse of a volunteer organization, the Big Brothers of the National Capital Area. So anyone who thinks we did the right thing in the case of the so-called Georgetown amendment, or what is technically known as the religious liberty amendment, I think would be disposed to vote for this. I did not want to leave, unintentionally, confusion that somehow we were solving a problem we have already dealt with. This is not the same problem, but it is similar.

The District of Columbia is trying to force Big Brothers and other similar organizations to admit homosexuals into their program as counselors and role models for the youngsters that they work with. I think that is intolerable. My amendment does not say they may not have such persons in their organization. It says it is up to them.

To sum up, I leave it at this: If this amendment passes and is enacted, Big Brothers and similar organizations can keep the policy they have, and they can go back to the policy they had formerly, or they can have some other kind of policy.

My amendment does not require them to do anything. What it does is prevent the D.C. City Council and the D.C. department that enforces this statute from imposing on them in this way, imposing what I believe to be a very unfair requirement.

Mr. President, I again thank my colleague from Massachusetts for his courtesy. I think we are now ready to take up his motion to table.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. 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. WALLOP. Mr. President, often times the Senate seems unable or unwilling to look at what it has already done that is pretty good and sets off on a new Quixotian conquest, to try to reinvent the wheel. Mr. President, I am speaking about the Congressional Award, much of the style of which has been plagiarized by the Senate Labor and Human Relations Committee, but none of the good of which has been.

I will give a little history to the Senate. The Congressional Award, was signed into law by President Carter in 1979. We have had a hard time, Mr. President, getting Congress to recognize the good that it did when it established that program. But it provides for 3 medals for young people in America, competing against themselves. So we do not need the handicap amendment, we do not need the award—in this instance only one per congressional district. These are young people who in America go out and earn their own awards in three areas: physical self improvement, in community service—voluntarism, if you will—and in exploration.

Mr. President, the young people of America where these programs exist have given three-quarters of a million hours and this committee did not even pause to recognize it. Three-quarters of a million hours to all kinds of

things, like Meals on Wheels, to community ambulance services, to go sit with an elderly couple who were injured on a farm.

This committee takes all of the structure and creates a new award program but only one person per district.

We know, Mr. President, that turns into elitism and it becomes political. That is precisely what it is going to do. Whereas the Congressional Award is precisely the opposite. It encourages the young people of America and they have responded; where there have been Members of Congress interested enough to set up such a program in their district, they have responded incredibly.

We had the handicap amendment just a little while ago. Mr. President, one of the first recipients of the gold medal was a youth who had been perennially handicapped, who lived in a wheelchair, and set for himself the task of walking the length of a football field for his physical self-improvement. He achieved that. It would be like any of these flaccid old Senators running seven marathons in an afternoon. This young fellow did that.

We have this program. I ask the chairman of the committee or the Republican manager of the bill, why was the Congressional Award not considered when creating this voluntarism bill?

Mr. KENNEDY. I apologize to the Senator. I was just gathering, from the end of his remarks; he asked why did we not consider the Congressional Award?

Mr. WALLOP. Why did my colleague consider a new award, for one person in a district, which competes with the Congressional Award which has already been set up which encourages the young people of America to do just precisely that kind of thing? But in that instance they have people in their districts who work with them, volunteer to take care of these incredible achievements that they have. Instead, my colleagues set up another award?

Mr. KENNEDY. I am delighted to respond. The Senator has identified an issue which we believe has some merit. It is basically ancillary to the other provisions, which we hope will encourage voluntarism. We know there are those who do not believe there should be a stipend given, or that there ought to be an opportunity to work for benefits, such as in education. We know there are those who would like to have only the very wealthiest individuals be able to volunteer. But we have recognized that voluntarism goes all the way through the economy and goes to those with low incomes and middle incomes as well as higher incomes. So we have structured this with a variety of different programs.

The purpose of the variety of different programs is to do an evaluation, after 2 years, to look at the Conserva-

tion Corps, to look at the Serve America Program, to look at what has been done in the area of education in five or six different kinds of proposals. And one of them permits the President of the United States to give an award in a congressional district for outstanding service.

We do not say that is the answer. That is just an add-on. This whole provision is a variety of different recommendations.

We have suggestions from Members, including Members from my colleague's own side. This particular proposal was strongly advocated by the Senator from Pennsylvania [Mr. Specter].

It is not obligatory. If the President does not want to provide them, he does not have to. There is no obligation.

So I have difficulty, Mr. President, wondering why at this hour of the night the Senator is so excited about this particular provision. I think it is probably a generally useful one. If, over a period of time the President makes a decision to grant an award, and finds that individual in that particular district, and we see that that type of support and encouragement does increase the numbers of volunteers in different parts of the country—so be it. If he does not, so be it.

We have a variety of different kinds of awards, Mr. President. We are now also considering honoring teachers, scientists. We have different corporations that do it. I know there are some who think perhaps there are too many. We do think this, at least, is a useful idea.

There is no obligation. If the President does not desire to use those particular provisions, there are no requirements.

So I hear what the Senator is saying, but I cannot quite reach the same conclusion as the Senator has.

Mr. WALLOP. Mr. President, I feared the response that I would get from the Senator would be precisely the one I got.

The committee does not know about the Congressional Award. In fact, the committee does not understand what it, this Congress, has already done, and the good it has already created in America.

First of all, let me say these volunteers are genuine volunteers. And they are not wealthy children. It insults the program to suggest that only the wealthy have participated in the Congressional Awards. In fact, quite the contrary, most of the children who have won these awards have come from inner-city schools. Most of them have.

Just so we can get into the Record what we have already, we have the Congressional Award, which is an earned honor, that any young person in America can earn. He does not have to be cited by the President. He does not have to have a political connec-

tion. He has to have an award program, period.

It goes to youth between the ages of 14 and 23, a bronze medal, a silver medal, or a gold medal, based on their achievements, and each level of award is based on attaining a set number of activities in each of three areas: Volunteer public service, not paid volunteer but voluntary; personal development; physical fitness. Each of these young people has an adult American who is willing to volunteer and commit his time to oversee that program while the award is earned.

Anyone who has read the report for the National Community Service Act will realize that the existing Congressional Award Program is similar to the Award for Service Program proposed by section 417 of the act.

The act just does, in effect, duplicate an existing volunteer award program, but for the fact that only one in a congressional district can earn it. And he has to be discovered by the President of the United States.

The National Service Act actually pays the volunteers for their services. It does not recognize that young people in America of every class, are, today, volunteering their services.

This is a Nation of good and decent people, and the committee somehow or another thinks it has to pay people to be good and decent. It does not recognize what exists now today and is working in America.

We went through the same exercise of the public works employment in the late 1970's. Even President Carter eventually rejected the program as wasteful. It is an ill-disguised attempt to revise that program.

In my opinion, Mr. President, the Senate should delete section 417, the awards program, since it duplicates ours, competes with ours, and diminishes the award the Congress has already created.

This Senate and the House of Representatives paid short shrift to the award, and if they would pay half as much attention as this committee has to creating a duplicate system, that award would be thriving in every congressional district in America today.

Mr. President, I yield the floor, expressing my profound discouragement. It does not seem to care to advocate its continued use and expansion.

Mr. HATCH. Will the Senator yield? Mr. WALLOP. I will be happy to.

Mr. HATCH. I appreciate what the Senator is saying, and it is important. I think the Congressional Awards are very important.

This bill gives permission to the President, if he wants, to grant awards. It just is another way of providing recognition for those who provide exemplary meritorious service.

Mr. WALLOP. Is he aware that the only award given in the name of Congress is the Congressional Award, given by the Congress of the United States?

Mr. HATCH. Is the President aware?

Mr. WALLOP. It is the Congressional Award. This is our program. It is the only award that bears the name of Congress. And the committee chose to ignore it, not even reference it in their report.

Mr. HATCH. I am aware of that, and I think the fact this bill ignores it does not mean we do not have Senators, individual Senators, who recognize how valid the system of Congressional Awards really is.

I think the Senator has raised a valid point, but we already knew about the Congressional Award. What we are doing here is just permitting the President, if he wants to, to issue additional awards.

Mr. WALLOP. Please forgive me. I understand what is being done here, and I understand it is permissive and not mandatory.

But here is a committee setting about to examine voluntarism in America, ignoring the achievements of what Congress has already done, and not even giving encouragement that that be part of the program of voluntarism.

Mr. HATCH. I take the Senator's criticism seriously, and I have to say I think he points out a defect in the bill. I am not opposed to remedying that defect if he wants to, but I personally think everybody here recognizes Congressional Awards are important. We accept them. We want them to have the prestige that they do have.

I do not know that adding them to this bill, when they are already in existence, does anything to add more to their prestige.

Mr. WALLOP. Mr. President, I say to the Senator that everybody here does not recognize it, including this committee. That is the level of frustration that this Senator has, who was one of the founders of that award, who sat on the board of it and has been trying to gain the attention of the Senate now for over a decade, and people ignore it.

This is the best example we have of its being ignored, an incredible program that exists in some 24 of our States now. Is just overlooked.

I guess my plea here on the floor tonight is not to continue this argument, but to tell us that we have something that is attracting enormously good qualities out of the young people of America, and it is the only award that Congress gives in its own name.

I plead with the Senator from Utah and the Senator from Massachusetts that they recognize and try and help support the award that we already have. Go ahead with your voluntary bill, go ahead with the paid volunteers, but for heaven's sake, recognize that young people from every level and walk of life, whole and lame and halt, have been a part of this award, have achieved enormously inspiring things, and we choose here tonight to ignore it. We cannot even get Senators to

come to the award ceremonies that we have in this Capitol from time to time.

I am just suggesting that what Congress has already done is really good, and what Congress is doing now, is ignoring what good it has already created with the Congressional Award Program.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. HOFFMAN). The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I want to express my appreciation to the managers of the bill for the courtesy to set this time aside for me to make brief remarks on another subject.

Before doing so, I would like to compliment the managers of the bill for the excellent work they have been doing on the floor and the authors of this legislation for bringing it forward for our consideration.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. I thank the Chair.

(The remarks of Mr. GORE pertaining to the submission of Senate Concurrent Resolution 97 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

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

The PRESIDING OFFICER (Mr. KOHL). The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL AND COMMUNITY SERVICE ACT OF 1989

The Senate continued consideration of the bill.

Mr. ARMSTRONG. I gather we are sort of at ease while we work out things behind the scenes, so perhaps this is a good moment for my annual speech about colloquys and committee reports.

From time to time, I have noted that there are some uninformed souls who take what appears in the reports of committees of the Senate, and what appears in the CONGRESSIONAL RECORD as colloquys and statements to be valid statements of legislative intent. If there should be anybody who is inclined to do so, I would like to point out a couple of things, particularly if there should be a judge some place in a court who might read a committee report or read a colloquy that is inserted in the RECORD and say, "So that is what Congress intended," and thereby decide some pending lawsuit in accordance with that understanding.

I would just like to put such judges and other persons on notice. First, Senators do not write committee reports. For the most part, Senators do not read committee reports. So, obviously, they cannot actually represent any valid legislative intent.

In fact, I just happened to pick up a committee report that was on this desk. I would judge that there probably is not even one Senator who has read as much as half of the 709 pages of this committee report. I would judge there is not any Senator who has read all of it. Probably it would be safe to say something over 90 Members of Senate have not read any of it.

I do not say this to criticize, because it nonetheless is a document that is useful as a point of reference for certain purposes, but let me just say to a judge or others who think this is legislative intent, it is not.

The reason why this is important is because sometimes I know courts are inclined to so interpret committee reports and colloquys and so on. I made a statement similar to this a few years ago and not too long afterward a judge in Virginia cited my comments in pointing out why he had ignored some committee report, and I am glad he did. He did the right thing. Legislation speaks for itself. An attempt to legislate by committee report is not only a bad practice, but, in fact, it does not represent valid legislative intent.

Now, about colloquys. On yesterday, I entered into a colloquy with one of my colleagues, and I was dismayed to note that right after that colloquy there appeared in the RECORD a statement which he made, of which I was not aware, and would not have been had not a sharp-eyed member of my staff spotted his statement, which may be interpreted by some as in some way undoing the colloquy.

I just wanted to say for the RECORD—and I want to say it publicly so that nobody gets sandbagged—I am going to put another statement in the RECORD which restates what I thought the colloquy was all about. The bottom line is colloquys are hot air and should be ignored by thoughtful people.

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

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

Mr. SIMON. Mr. President, the evidence is clear: When Americans are asked to serve others and are given the opportunity, they come forward eagerly. What is also clear is that we have not been sending a strong message from the Federal level about the importance of serving. And we are not giving the kinds of assistance that make it possible for Americans of all ages and walks of life to give such service. The National and Community Service Act of 1990 sends a strong message and moves us in the direction of giving those opportunities.

I commend our Labor and Human Resources chairman, Senator KENNEDY,

for his efforts on this legislation. I am grateful to him and to Senator HATCH for agreeing to include in this substitute bill a number of amendments I recommended. These amendments give greater attention to basic skills needs and illiteracy among both the volunteers and program recipients, and provide testing and services to those who may have learning disabilities. In addition, the amendments include libraries in the definition of an education institution, making it clear that libraries are eligible for funding under the School and Community-based Service Partnership Program.

Mr. President, as I read the debate from Tuesday evening I noted some misunderstanding in regard to the benefits available to those who serve in what I believe is an excellent model for national service, the VISTA program. I'd like to make it clear to my colleagues that VISTA volunteers, who must serve at least 1 year and be on call 24 hours a day, 7 days a week, currently receive a stipend at the end of their year of service of only \$75 a month. That is only a \$900 reward for their 1 year of service. That figure will go up to \$90 a month next year and to \$95 a month in the following year. At the maximum, in 1992, it will result in a stipend of only \$1,140 per year. This is in comparison to the \$5,000 in housing or education vouchers for a year of service under the National Service Demonstration Program under this bill.

VISTA is the domestic equivalent of the Peace Corps, a program that has provided great service to hundreds of thousands around the world while providing an invaluable service to the United States. These volunteers have postservice benefits a little more generous than VISTA's: \$2,400 a year for up to 2 years of service—still not half of the amount that will be available to the national service volunteers.

One of the more valuable parts of this bill is our colleague Senator BUMPERS' provision to expand loan forgiveness and to make sure that applicants for Stafford and Perkins student loans are informed of the loan forgiveness available if they serve as a VISTA or Peace Corps volunteer or in an equivalent full-time volunteer capacity. This loan forgiveness in some respects compensates for the discrepancy in the postservice rewards for the national service volunteer and the VISTA volunteer. It is my understanding that the intent of the legislation is that this loan forgiveness is not an additional benefit available to national service volunteers under S. 1430.

But I would like to make sure that VISTA volunteers who may be working side by side with national service volunteers in the same antipoverty project will not feel they are less valued by those of us who design these programs. When each VISTA literacy corps volunteer recruits and trains from 100 to 200 community volunteers

in literacy each year, as they are doing in Chicago and throughout Illinois today, we should be doing all we can to let them know their magnificent efforts are recognized and appreciated. And we should be encouraging more people to sign on as VISTA's. VISTA has a 25-year record of service that few programs can match.

And I also want to make sure that Peace Corps volunteers are not denigrated by being considered less valuable to their country than those who serve in communities here at home.

Because it is late in this process to be coming up with an amendment to provide equity for VISTA and Peace Corps volunteers, I have asked our chairman for an assurance that we will work with the House to address this issue in the final bill that comes out of conference. I believe the level of national service benefits could and should be made an option for these volunteers—not on top of their existing benefits or the new loan forgiveness benefits, but as an alternative option for these volunteers who live and work among the poorest of the poor in this country and countries around the world, and who generally have more stringent service requirements than will be required of national service volunteers.

In another area, Mr. President, just recently the Senate demonstrated strong concern for the problem of illiteracy in this country by voting 99 to 0 to pass the National Literacy Act. I appreciate my colleagues' support on that legislation and want to point out that we should not overlook the fact that this bill, S. 1430, can serve as a complement to the National Literacy Act. There is no question that as we expand and develop programs to combat illiteracy, our need for committed volunteers in a variety of areas will increase.

This legislation offers an opportunity to reach and train volunteers to serve in literacy programs. In addition, the attention to youth who are educationally disadvantaged, particularly in the American Conservation and Youth Corps, will help us reach many young people who may soon be among the millions of adult illiterate in this country if we don't give them the help they need now.

Since my early days in Congress, I have been in favor of enacting some type of national service. Back in 1979, as chairman of the House Subcommittee on Select Education, I chaired a hearing in which we looked at a variety of national service models and heard testimony on the need for such programs. My longtime friend, Harris Wofford, then cochair of the Committee for the Study of National Service, stated that the idea of voluntary national service was an "invitation to the imagination of both the public and private sectors." A decade later, at a hearing I chaired in Philadelphia last year, Harris Wofford, as Pennsylvania's secretary of labor, was arguing

the same issue while testifying on S. 543, a bill I've introduced to amend the Job Training Partnership Act and establish a Fair Chance Youth Opportunities Program. He pleaded with us once again to act on a national level to help states meet these urgent needs.

S. 1430 responds by giving young people an opportunity to learn the significance of service to others while addressing important national needs. I might add that when we take up S. 543 here in the Senate, will have another chance to reach the 600,000 to 700,000 young people who drop out each year and are left behind in our society—as well as those millions of adults who continue to be out of work and out of hope. To make a meaningful impact on a problem of such magnitude, and of such importance to the economic and social well-being of the Nation, we clearly need to act through a variety of approaches that complement and reinforce each other. These legislative initiatives working together can give real hope and opportunity to millions.

Mr. President, I am pleased that the contributions and importance of VISTA and the Older American Volunteer Programs are not ignored in the enactment of this national service legislation. Because we just recently reauthorized the Domestic Volunteer Service Act and increased the funding for VISTA and the Older American Volunteer Programs, this bill does not include them. But it would be a significant oversight if they were not given recognition in the consideration of national service and in the findings of this bill. There are no better models for national and community service that exist under the Domestic Volunteer Service Act, and I'm pleased that much of the National and Community Service Act is drawn from the concepts in these long effective programs. I trust that the attention we are giving to new service opportunities will increase our commitment to expanding these older ones as well. And I hope we will not fail to provide fairness and equity in the benefits for these volunteers.

Once again, I'm pleased we are acting to use our human resources more wisely. We will be enriching our Nation and enriching each one of the volunteers who participates in these programs. I urge my colleagues to support this legislation.

Mr. DASCHLE. Mr. President, I rise to express my support for S. 1430, the National and Community Service Act.

Let me begin by congratulating my colleagues who have promoted the concept of national service. Senator KENNEDY, Senator NUNN, Senator MIKULSKI, Senator ROBB, Senator DODD, Senator GRAHAM, and Senator BUMPERS have each made significant contributions to this legislation and have worked together to bring forward a comprehensive and effective national service proposal.

My gratitude and appreciation also go to Majority Leader MITCHELL,

whose leadership made public service a priority by placing it on the Democratic agenda last March.

I wholeheartedly support the National and Community Service Act, which recognizes the need to revive the spirit of voluntarism in America. Our modern society places many personal demands on every American's time and energy, and, as a result, civic responsibility has simply become a low priority for too many Americans. A culture of apathy has begun to emerge in our Nation as Americans too often forget the important role they have to play in serving their communities and their country.

Congress must help reverse this societal trend that dissociates citizens from involvement in civic life. Most importantly, adults must teach young Americans about the important responsibilities that accompany democracy's freedoms and rights. Teachers and students alike admit that today's generation of young adults has a diminished willingness to become involved in activities outside the sphere of their own personal lives. Young adults, however, also express a definite interest in serving in their communities through a planned volunteer program.

The National and Community Service Act will establish an organized volunteer program that will tap into the resources and talents of all Americans. School-based and community agencies will work together to create and expand service opportunities for students, and a full-time youth corps will provide opportunities for young adults to earn postservice education and training benefits. For adults, this legislation would provide full- and part-time service opportunities in a wide range of areas, with full-time participants able to earn either education benefits, first-home benefits, or both.

In my home State of South Dakota, this legislation will open up a wide variety of service opportunities for people of all ages. South Dakotans may become involved in efforts to promote and preserve our precious but limited forest, agricultural, recreational, and wildlife areas, as well as our cultural and historical resources. Existing community programs that serve the elderly and shut-in will also be given a boost by this legislation, and new programs may be developed to target the specific needs of the elderly who live in rural areas. From social service programs like tutoring and literacy training to environmental protection efforts, I am confident that South Dakotans will join in a renewed national commitment to community service.

As the United States enters a new decade, the National and Community Service Act will help young and old alike work together to help themselves by helping others. Active volunteers will help rebuild America's infrastructure as they earn basic job skills and a

sense of civic pride. In the words of President Lyndon Johnson, who created the Volunteers in Service to America Program, these volunteers will gain that "ultimate reward which comes to those who serve their fellow man."

Mr. LEAHY. Mr. President, I am very thankful to my colleagues who have worked so hard to craft national and community service legislation. This bill is long overdue.

The National and Community Service Act provides many opportunities for Americans of all ages to volunteer in their communities. It will generate 1 billion hours of community service over the next 5 years by building on existing programs, encouraging schools to involve students in volunteer service, and offering incentives to those who wish to make a substantial full- or part-time commitment to civilian service.

I am glad this bill has a special focus on youth. Too often on this floor we debate the amount of money to spend on law enforcement, or how tough we should make laws to deter young people from drugs and crime.

Not often enough do we spend our time passing laws which give children something to which they can say "yes."

I have been a supporter of community service for a long time, and I am pleased to be a cosponsor this bill. This is a compromise measure that incorporates aspects of 14 Senate bills. It has the support of over 65 national organizations.

So many volunteer efforts on the local level deserve our support. In my own State of Vermont, hundreds of volunteer programs involving youth, seniors, and adults of all ages provide needed services in our towns and rural areas.

There is one volunteer program in Vermont of which I am especially proud.

It is at St. Michael's College in Winoski, VT—my alma mater. Two years ago the school recognized the value of getting its students out into the community. They established a program called MOVE, or Mobilization of Volunteer Efforts. This program has been successful beyond the hopes of its creators. During the 1988-89 academic year alone, more than 400 students—that is about 25 percent of the student body—performed over 20,000 hours of community service.

MOVE has successfully channeled the talents, creativity and energy of St. Michael's students into innovative and effective service programs that make a difference in the community.

MOVE is addressing unserved needs in its local community. The "Hunger Garden," for example, was started in the summer of 1988 by Rev. Thomas Hoar. St. Michael's gave two plots of land for the garden, where squash, tomatoes, potatoes, string beans, carrots, and other vegetables are planted. After student volunteers harvested the

vegetables, all the food was shipped to the Chittenden County Emergency Food Shelf which services the hungry in this Vermont county.

Students are becoming more aware of the needs of persons with disabilities. After spending "Physical Awareness Day" in wheelchairs, students learned about the barriers some of their students encounter. The day was effective in spreading awareness of the physically challenged and their needs. A student named Larry, who has cerebral palsy, has benefited from this awareness. Many students volunteer to help Larry get to classes and live in student housing.

On a warm September afternoon in the fall, St. Michael's campus was filled with colorful balloons, clowns and smiling faces. The event was the First Annual Kids' Day. With about 150 area children, the day's activities included art tables, games, a puppet show, a magician, a story teller, and refreshments. It was a time for the children to enjoy themselves and chance for St. Michael's students to become familiar with volunteering.

Many students spend their spring breaks volunteering in other areas of the country. For several years, the MOVE Program has sponsored week-long programs that offer an alternative to more traditional spring break activities. St. Michael's students have volunteered at Covenant House, a home for runaway teenagers, and have worked with social service organizations in Appalachia.

I am proud to say that the MOVE Program at St. Michael's College has been named by President Bush as the "Thirty-fourth Point of Light." This national recognition is well-deserved.

But it is not enough that we support efforts like the MOVE Program with a title, however prestigious. We must provide them with the financial and organizational support they need.

The National and Community Service Act provides that structure, and the necessary funding. Americans have proven time and time again that they are willing to give of themselves in volunteer services, that the ethic of civic responsibility is still alive. In passing this legislation, the Senate makes itself a partner in those valuable efforts.

Mr. GORE. Mr. President, we often discuss the problems our citizens are experiencing—overcrowded classrooms, understaffed care facilities for the elderly, diminishing forests. Therefore, I am pleased to be a cosponsor of the National and Community Service Act, which will encourage our Nation's citizens to become more involved in their communities, to contribute to the solutions of the problems facing society. I wish to congratulate the members of the Labor Committee who have brought to the Senate this legislation, which will provide a framework to channel the limitless energies of those who wish to serve their neighbors.

Since the time when a young President challenged our Nation to "ask not what your country can do for you; ask what you can do for your country," the idea of voluntarism and service to community and nation has lost its luster. The 1980's seemed to have been characterized by greed and avarice. As we enter the 1990's our Nation should commit itself once again to community service and involvement, to making the world in which we live a better place—this bill is the first step.

Once again we need our citizens to work together to build a better society. We need our citizens to participate in their neighborhoods—to strengthen the connection between individuals and the communities where they live. Young people who volunteer for national service become more self-reliant and develop a better understanding of their roles and responsibilities in the community. National service is a practical way for our citizens—young and old—to learn and grow through training, guidance, and group interaction.

The National and Community Service Act establishes school and community based programs to encourage students to serve their communities—by teaching the illiterate, by spending time with children in day care centers, by planting trees, working in recycling centers, helping with activities at senior citizens centers. The possibilities are limited only by the participants' imaginations. These summer and part-time positions would provide participants with productive work that would make them feel positive about themselves and their contributions; and these volunteer opportunities would provide important benefits for all the people served.

This legislation provides States with competitive grants to fund educational, environmental, public service, or public safety programs. College students would be encouraged to participate in community service programs with incentives such as academic credits, deferred or partially canceled loans or work-study options. As more and more people get involved, our neighborhoods, our communities and every person in America will be the winners.

I urge all of my colleagues to support the National and Community Service Act. By expanding volunteer efforts our citizens will help create more cohesive, connected communities. And, our communities will become more vital, more vibrant places to live.

Mr. KENNEDY. Mr. President, I appreciate the patience of our colleagues as we have been trying to bring this legislative effort to a conclusion this evening. We have made some very substantial progress during the course of the day.

It had been my hope that we might have been able to conclude at a reasonable hour this evening. It is my understanding that we are down to prob-

ably one or two important items that remain to be addressed, and I recognize that we could conclude this evening, but we would probably go on into the evening for a period of time. It is acceptable to those who are offering the amendments to address these issues in the morning.

So it is my intention, and I have talked with the leader, and I believe the majority and minority leaders should be to bring this matter back on the floor as early as 10 tomorrow morning, so we can take up where we are right at this present time. I do believe we will be able to move the legislation and resolve it in an expeditious way which will permit us to address other measures tomorrow. So that is our intention.

I have talked this over with my colleague and comanager, the Senator from Utah, and this is an agreeable way for him as well. We have mentioned this to the Senator from Colorado, who has the pending amendment, and it is satisfactory to him.

We have not been able to get the attention of Senator NICKLES. We hope we will be able to resolve that particular issue, and we hope we will be able to announce something on that remaining item. Then hopefully, Mr. President, with the acceptance of the amendments of the Senator from California [Mr. WILSON] we will, in terms of what we have been notified at the present time, be ready to move toward a third reading.

That is currently the situation. I will let the majority leader make the definitive declaration about what, if anything, we are going to be doing for the remainder of this evening, but this legislation will go over until tomorrow morning.

Mr. HATCH. Will the Senator yield? As I understand it, for the benefit of our colleagues, I think it is correct there will be no further votes tonight.

Mr. ARMSTRONG. A little louder, please.

Mr. KENNEDY. The question on the votes or nonvotes really has to be stated by the majority leader, appropriately. There will not be votes on this particular measure.

The leader says that we can say it, so we have said it. There are no more votes. I am always glad to bring good news.

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

Mr. KENNEDY. I am glad to yield the floor.

Mr. ARMSTRONG. My understanding is that we will return to this at 10 tomorrow, but that we have not entered into any agreement as to when we will vote.

The PRESIDING OFFICER. The Senator is correct. There has been no agreement.

Mr. ARMSTRONG. I am agreeable, although I am ready to vote tonight. I am ready to vote at any time.

The only concern I feel about this arrangement—and I am agreeable to it

just to expedite the business of the Senate—is that I hope no Senator would feel that this would be the moment to offer a second-degree amendment that might confuse the issue. I would like to have a vote up or down on my amendment, or if somebody wants to move to table me, that is all right.

I will not be agreeable if the effort is to simply offer an amendment which confuses the issue. This is a simple matter. To bring in unrelated or extraneous issues as a second-degree amendment will, in my opinion, not expedite the work of the Senate and would not be a good practice. I hope no Senator will dream up that idea overnight. It is not something that is complicated or that requires a lot of refinement, and I hope we can dispose of it quickly in the morning.

I do not see other Senators seeking recognition. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for 5 minutes.

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

IRISH AMERICAN HERITAGE MONTH—A TRIBUTE TO THE SHARED TRADITIONS AND VALUES OF THE UNITED STATES AND IRELAND

Mr. PELL. Mr. President, today I am pleased to have joined Senators SIMON, KERRY, MOYNIHAN, KENNEDY, and others in introducing legislation to pay tribute to the contributions that Irish-Americans have made to the United States.

The United States enjoys a long-standing and friendly relationship with Ireland, due in large measure to the strong Irish strands in the fabric of America. Indeed, at the last census count, more than 40 million residents of the United States reported that they were of Irish descent. Irish-Americans have made an indelible mark on the many diverse aspects of American culture, and they have played an important part in our Nation's history.

The legislation we introduced would designate March 1990 as Irish Heritage Month. It also reaffirms the special relationship between the United States and Ireland at a time when events in Europe warrant a coherent

response by the United States and its Western allies.

Yesterday, the Senate Foreign Relations Committee hosted a private meeting with Irish Prime Minister Charles J. Haughey, who is visiting Washington in conjunction with Ireland's ascendancy to the Presidency of the European Economic Community.

The EC will likely emerge as one of the primary actors in the formulation of a new order in Europe. Ireland, as president of the EC, will play an important role in that process. It is thus particularly timely that we in the United States reflect on our deep ties with Ireland and our common bonds with the Irish people.

Mr. President, it is clear that the United States has a real interest in designating March 1990 as Irish-American Heritage Month. Not only would the celebration be a fitting tribute to the contributions that Irish-Americans have made to U.S. society, but it would also solidify our friendship with a significant ally in Europe. Accordingly, I urge my colleagues to support this timely and important legislation.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, 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 and a treaty which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2742) to extend and amend the Library Services and Construction Act, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 1014. An act to change the name of "Marion Lake", located northwest of Marion, Kansas, to "Marion Reservoir".

At 4:40 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3729) to authorize appropriations to the National Aeronautics

Malcolm Wallop, Paul S. Sarbanes, Howell Heflin, Timothy E. Wirth, Barbara A. Mikulski, Thomas A. Daschle, Wyche Fowler, Jr., Robert W. Kasten, Jr., Richard Shelby, Robert C. Byrd, Howard M. Metzenbaum.

EXHIBIT 2

GORBACHEV FORCES BILL ON PRESIDENCY PAST LEGISLATURE—DRIVE TO EXPAND POWERS—FINAL ACTION COULD BE TAKEN AT CONGRESSIONAL SESSION IN TWO WEEKS' TIME

(By Francis X. Clines)

Moscow, February 27.—Under fierce prodding from President Mikhail S. Gorbachev, the Supreme Soviet gave initial approval today to his proposal to secure greater executive powers through the institution of a popularly elected presidency.

In an angry, intense session that culminated in a virtuoso display of Mr. Gorbachev's power to dominate the legislative process, the Supreme Soviet, the standing Parliament, yielded to the hard-driving leader and sent the emergency proposal on to the Congress making a law.

"Calm down, calm down, calm down," Mr. Gorbachev said, glaring around the Kremlin hall as he took over the microphone for a long, obviously heartfelt denunciation of the chamber's nascent opposition minority and its often stinging criticism of the proposal.

NEXT STEP MARCH 12 AND 13

"Life itself dictates quick action on this matter," he said, closing off debate in a chairman's fiat that soon produced a vote of 306 to 65 to send the proposal on to the 2,250-member Congress of People's Deputies, the final step in the legislative process. Mr. Gorbachev scheduled an emergency session of the Congress for March 12 and 13.

"People who are opposed to this proposal are trying to sow distrust," he said, his voice steeled by exasperation at criticism of the plan as too close to the nation's totalitarian history to be dealt with in such haste.

Anatoly A. Sobchak, a leading opposition deputy who warned that the proposal was far from ready for a vote, said, "We are not talking about electing some all-union gendarme. We are talking about a president."

The measure was proposed by Mr. Gorbachev in tandem with his recent concession that the Communist Party might consider yielding its constitutional monopoly on power.

The plan would institute a popularly elected president with a five-year term—but only after a transition period of four years, during which Mr. Gorbachev would seem quite likely to keep the post by winning reelection by the national Congress.

In addition to being commander in chief and chief of state, the new president would have the power to declare a state of emergency and martial law in any troubled area.

"If the law is adopted in its present form, the president can do almost everything," said Sergei B. Stankevich. "We can still feel the great totalitarian tradition in this country."

Mr. Gorbachev argued that modern needs required a stronger executive, but not, he promised, of the sort represented by his more notorious predecessors such as Stalin.

Mr. Gorbachev and supporters of the new presidency plan say that the parliamentary system introduced last year gives Mr. Gorbachev insufficient power, because he must consult with the Supreme Soviet or, in emergencies, with its ruling Presidium before acting—slowing him down in dealing with ethnic or economic crises.

He agreed that the crisis-ridden nation might need a stronger executive system but

he stressed that it must be cast with careful regard for checks and balances.

One deputy, alarmed at the sudden display of executive power that curtailed the debate, took to a floor microphone to complain, "The way the vote was carried out today is an indication of what executive presidential power will be."

Another deputy, Vladimir I. Denisov warned the lawmakers that under the president could easily turn into a kind of eastern despotism."

ABSENCE OF CHECKS AND BALANCES

While the broader executive powers might seem comparable to those of such democracies as the United States, Mr. Denisov said, there was no other established center of power to provide the checks and balances of the American system.

The new legislature, Mr. Denisov said, is already "a shop that is dying," and the judiciary is riddled with party appointees. He drew widespread laughter of agreement in arguing, "No supreme court judge in this country would dream of judging against him in his worst nightmare."

Before Mr. Gorbachev signaled the Communist Party loyalists of the majority that he wanted fast approval, various deputies sought speaking time to raise questions about the measure. In particular they wondered how it would fit into Mr. Gorbachev's earlier plans to decentralize authority, taking it away from the Kremlin and giving it to the nation's republics and local governments.

After hearing Mr. Gorbachev and other proponents reply that any legislative delay would only compound the national crisis, one deputy, Tengiz P. Buachidze, turned to Mr. Gorbachev and pleaded, "Equal to equal, human to human, please make clear to us what the rights of the republics are."

Mr. Gorbachev, who only six months ago was defending the one-party monopoly of government and dismissal of a Western-style executive system as alien to national tradition, said he had had this "third stage" of political reform in mind for some time.

The nation's crisis was so pressing, longer be measured as a matter of "years or even months."

He asked rhetorically whether he should resign now because, as he heatedly noted, "we are now dealing with an open opposition" willing to question his motives.

"That is a wild thought," he said, dismissing the notion as he pushed the majority to deliver the vote.

NO WISH TO UNSEAT GORBACHEV

A number of critics conceded that a more effective executive system was badly needed, and even as they said the proposed executive was far too powerful to be approved in haste, many of them implicitly acknowledged they had no wish to unseat Mr. Gorbachev, who is widely perceived as the nation's indispensable emergency leader.

"What does Gorbachev have to do with it?" he asked the lawmakers, disowning a dictator's appetite but saying he would be guilty of cowardice if he did not seek the widespread elected authority he says he needs to deal with such problems as rebellion and ethnic violence in some republics.

"Life has brought us to this point, nothing else," he prodded the lawmakers. "We must make a decision."

Such critics as Yuri Boldyrev, a deputy from Leningrad, focused on the increased powers of legislative veto the new president would have and pleaded with the chamber not to continue the Soviet "illusion that our problems can be solved by increasing central authority."

Mr. Gorbachev denounced this as "cheap demagoguery."

"Comrades, you will be ashamed of other deputy said the urgency was too reminiscent of the founding Bolsheviks: 'The comrades back then were in a hurry, too.'"

SENATE RESOLUTION 253—AUTHORIZING THE PRINTING OF A REVISED EDITION OF SENATE ELECTION LAW GUIDEBOOK

Mr. LEVIN (for Mr. FORD, for himself and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. Res. 253

Resolved, That the Committee on Rules and Administration hereby is directed to prepare a revised edition of the Senate Election Law Guidebook, Senate document 100-25, and that such document shall be printed as a Senate document.

SEC. 2. There shall be printed 600 additional copies of the document specified in section 1 of this resolution for the use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED

NATIONAL AND COMMUNITY SERVICE ACT

McCONNELL (AND OTHERS)
AMENDMENT NO. 1269

Mr. McCONNELL (for himself, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. COATS, Mr. GORTON, Mr. GRAMM, Mr. HATCH, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. NICKLES, Mr. SYMMS, Mr. KASTEN, and Mr. WALLOP) proposed an amendment to the bill (S. 1430) to enhance national and community service, and for other purposes, as follows:

At the end of the bill add the following new title:

TITLE IV—VOLUNTEER LIABILITY PROTECTION

SEC. 401. JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), joint and several liability may not be applied to any civil liability action if one party is a tax-exempt organization described in sections 501(c)(1), (3), (4), (6), (7), (14) and (19) of the Internal Revenue Code of 1986. A person found liable for damages in any such action may be found liable, if at all, only for those damages directly attributable to the person's pro rata share of fault or responsibility for the injury, and may not be found liable for damages attributable to the pro rata share of fault or responsibility of any other person (without regard to whether that person is a party to the action) for the injury, including any person bringing the action.

(b) EXCEPTION.—This section shall not apply as between persons acting in concert if the concerted action proximately caused the injury for which one or more persons are found liable for damages.

(c) DEFINITION.—As used in this section, the term "concerted action" or "acting in concert" means the participation in joint conduct by two or more persons who agreed to jointly participate in such conduct with actual knowledge of the wrongfulness of the conduct.

SEC. 402. ALTERNATIVE DISPUTE RESOLUTION.

(a) **POLICY.**—Because the traditional litigation process is not always suited to the timely, efficient, and inexpensive resolution of civil actions, it is the policy of the United States to encourage the creation and use of alternative dispute resolution techniques, and to promote the expeditious resolution of such actions.

(b) **ALTERNATIVE DISPUTE RESOLUTION OPTIONS.**—In any action in which one party is a tax-exempt organization described in sections 501(c)(1), (3), (4), (6), (7), (14) and (19) of the Internal Revenue Code of 1986, each attorney who has made an appearance in the case and who represents one or more of the parties to the action shall, with respect to each party separately represented, advise the party of the existence and availability of alternative dispute resolution options, including extrajudicial proceedings such as mini-trials, third-party mediation, court supervised arbitration, and summary jury trial proceedings.

(c) **ADVISING CLIENTS OF OPTIONS.**—Each attorney described in subsection (b) shall, simultaneous with the filing of a complaint or a responsive pleading, file notice with the court certifying that the attorney has so advised his client or clients, and indicating whether such client will agree to one or more of the alternative dispute resolution techniques.

(d) **AGREEMENT TO ALTERNATIVE DISPUTE RESOLUTION.**—If all parties to an action described in subsection (a) agree to proceed with one or more alternative dispute resolution proceedings, the court shall issue an appropriate order governing the conduct of such proceedings. The issuance of an order governing such further proceedings shall constitute a waiver, by each party subject to the order, of the right to proceed further in court.

SEC. 403. NATIONAL GOOD SAMARITAN RULE.

(a) **EXEMPTION FROM LIABILITY.**—Except as provided in subsections (b) and (d), any volunteer of a tax-exempt organization described in sections 501(c)(1), (3), (4), (6), (7), (14) and (19) of the Internal Revenue Code of 1986 shall not be subject to liability for any tort claim alleging damage or injury from any act or omission of the volunteer on behalf of the organization if—

(1) such individual was acting in good faith and within the scope of such individual's volunteer functions and activities with the organization; and

(2) such damage or injury was not caused by willful, wanton or reckless misconduct by such individual.

(b) **ACTIONS AGAINST VOLUNTEERS.**—Nothing in this section shall be construed to affect any civil action brought by any such tax-exempt organization against any volunteer of such organization.

(c) **INJURY TO A PERSON.**—Nothing in this section shall be construed to affect the liability of any such tax-exempt organization with respect to injury caused to any person.

(d) **EXCEPTION.**—The protection from liability required by subsection (a) does not (1) apply if the volunteer was operating a motor vehicle or was operating a vessel, aircraft, or other vehicle for which a pilot's or other form of operator's license is required; or (2) the volunteer was performing an activity which is subject to federal or state professional license or certification.

GRAMM (AND OTHERS)
AMENDMENT NO. 1270

Mr. GRAMM (for himself, Mr. HELMS, Mr. GORTON, Mr. LOTT, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. COATS, Mr. KASTEN, Mr. MACK, Mr.

McCain, Mr. SYMMS, and Mr. WALLOP) proposed an amendment, which was subsequently modified, to the bill S. 1430, *supra*, as follows:

At the appropriate place in the bill, insert the following:

SEC. . POLICY REGARDING "PEACE DIVIDEND".

(a) **FINDINGS.**—The Congress finds that—

(1) in recent months dramatic movements toward greater political and economic freedom have occurred in Eastern Europe and the Soviet Union;

(2) these democratic reforms may permit the preservation of our Nation's security at a cost less than current budget projections;

(3) the changes in Eastern Europe and the Soviet Union are a direct result of the American taxpayer's willingness and determination to pay the price for the advancement of freedom throughout the world;

(4) the changes in Eastern Europe and the Soviet Union are also a direct result of the total inability of socialist economies to compete with free-market economies;

(5) the family has been the keystone of the ability of Western democracies to promote growth and opportunity; and

(6) the recent democratic reforms in Eastern Europe and the Soviet Union have again demonstrated the need to redirect resources from government to the family to meet effectively individual needs of health, education, training, and nutrition.

(b) **POLICY.**—It is the sense of the Senate that—

(1) any savings resulting from lower defense expenditures below the level required for balanced fiscal restraint to meet the Gramm-Rudman-Hollings deficit targets and to achieve a balanced budget excluding the Social Security Trust Fund should be returned to America's taxpayers;

(2) only by returning defense savings to American families to invest in their futures and, thus, America's future can the United States assure that the "peace dividend" will be wisely invested; and

(3) savings from the so-called "peace dividend" should be returned to the American taxpayer in the form of measures such as a refundable child care tax deduction, repeal of the Social Security earnings test, an increase in the personal exemption, expansion of a permanent research and development tax credit, a long-term capital gains tax cut, further lowering of marginal tax rates, and other savings and investment incentives.

SASSER (AND OTHERS)
AMENDMENT NO. 1271

Mr. KENNEDY (for Mr. SASSER, for himself, Mr. KENNEDY, and Mr. KOHL) proposed an amendment to amendment No. 1270 proposed by Mr. GRAMM (and others) to the bill S. 1430, *supra*, as follows:

Strike all after the word "Sec. ." in the pending amendment and insert the following:

POLICY REGARDING "PEACE DIVIDEND".

(a) **FINDINGS.**—The Senate finds that—

(1) in recent months, dramatic movements toward greater political and economic freedom have occurred in Eastern Europe and the Soviet Union; and

(2) these democratic reforms will permit the preservation of our Nation's security at a cost less than current budget levels.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that funds saved as a result of reductions in military expenditures shall be used for—

(1) balancing the budget, without resorting to use of the Social Security surpluses,

in order to stop the ongoing "thievery" and "embezzlement" from the Social Security Trust Funds;

(2) urgent national priorities, including investing in America's future, anti-drug and anti-crime efforts, education, health care, the environment, rebuilding the infrastructure, assisting emerging democracies, and other critical needs;

(3) tax reductions for working men and women.

KENNEDY AMENDMENT NO. 1272

Mr. KENNEDY proposed an amendment to amendment No. 1270 proposed by Mr. GRAMM (and others) to the bill S. 1430, *supra*, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . POLICY REGARDING "PEACE DIVIDEND".

(a) **FINDINGS.**—The Senate finds that—

(1) in recent months, dramatic movements toward greater political and economic freedom have occurred in Eastern Europe and the Soviet Union; and

(2) these democratic reforms will permit the preservation of our Nation's security at a cost less than current budget levels.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that funds saved as a result of reductions in military expenditures shall be used for—

(1) balancing the budget, without resorting to use of the Social Security surpluses, in order to stop the ongoing "thievery" and "embezzlement" from the Social Security Trust Funds;

(2) urgent national priorities, including investing in America's future, anti-drug and anti-crime efforts, education, Head Start, health care, the environment, rebuilding the infrastructure, assisting emerging democracies, and other critical needs;

(3) tax reductions for working men and women.

GRAMM (AND OTHERS)
AMENDMENT NO. 1273

Mr. GRAMM (for himself, Mr. HELMS, Mr. GORTON, Mr. LOTT, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. COATS, Mr. KASTEN, Mr. MACK, Mr. MCCAIN, Mr. SYMMS, Mr. WALLOP, and Mr. ARMSTRONG) made a motion that the bill S. 1430 be recommitted with instructions to report back with the following amendment:

At the appropriate place in the bill, insert the following:

SEC. . POLICY REGARDING "PEACE DIVIDEND".

(a) **FINDINGS.**—The Congress finds that—

(1) in recent months dramatic movements toward greater political and economic freedom have occurred in Eastern Europe and the Soviet Union;

(2) these democratic reforms may permit the preservation of our Nation's security at a cost less than current budget projections;

(3) the changes in Eastern Europe and the Soviet Union are a direct result of the American taxpayer's willingness and determination to pay the price for the advancement of freedom throughout the world;

(4) the changes in Eastern Europe and the Soviet Union are also a direct result of the total inability of Socialist economies to compete with free-market economies;

(5) the family has been the keystone of the ability of Western democracies to promote growth and opportunity; and

(6) the recent democratic reforms in Eastern Europe and the Soviet Union have again

demonstrated the need to redirect resources from government to the family to meet effectively individual needs of health, education, training, and nutrition.

(b) **POLICY.**—It is the sense of the Senate that—

(1) any savings resulting from lower defense expenditures below the level required for balanced fiscal restraint to meet the Gramm-Rudman-Hollings deficit targets and to achieve a balanced budget excluding the Social Security Trust Fund should be returned to America's taxpayers;

(2) only by returning defense savings to American families to invest in their futures and, thus, America's future can the United States assure that the "peace dividend" will be wisely invested; and

(3) savings from the so-called "peace dividend" should be returned to the American taxpayer in the form of measures such as a refundable child care tax deduction, repeal of the Social Security earnings test, an increase in the personal exemption, expansion of a permanent research and development tax credit, a long-term capital gains tax cut, further lowering of marginal tax rates, and other savings and investment incentives.

SASSER (AND OTHERS) AMENDMENT NO. 1274

Mr. SASSER (for himself, Mr. KENNEDY, and Mr. KOHL) proposed an amendment to the bill S. 1430, supra, as follows:

At the end of the bill insert the following:
SEC. . POLICY REGARDING "PEACE DIVIDEND".

(a) **FINDINGS.**—The Senate finds that—

(1) in recent months, dramatic movements toward greater political and economic freedom have occurred in Eastern Europe and the Soviet Union; and

(2) these democratic reforms will permit the preservation of our Nation's security at a cost less than current budget levels.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that funds saved as a result of reductions in military expenditures shall be used for—

(1) balancing the budget, without resorting to use of the Social Security surpluses, in order to stop the ongoing "thievery" and "embezzlement" from the Social Security Trust Funds;

(2) urgent national priorities, including investing in America's future, anti-drug and anti-crime efforts, education, health care, the environment, rebuilding the infrastructure, assisting emerging democracies, and other critical needs;

(3) tax reductions for working men and women.

DOLE (AND OTHERS) AMENDMENT NO. 1275

Mr. DOLE (for himself, Mr. MCCAIN, Mr. KASTEN, and Mr. KERRY) proposed an amendment to the bill S. 1430, supra, as follows:

On page 7, line 11, insert "an individual with a disability," before "and".

On page 15, lines 17 and 18, strike out "handicapped conditions" and insert in lieu thereof "disabilities".

On page 20, lines 23 and 24, strike out "handicapped conditions" and insert in lieu thereof "disabilities".

On page 29, lines 24 and 25, strike out "handicapped conditions" and insert in lieu thereof "disabilities".

On page 30, line 21, after "sites," insert "accommodations for individuals with disabilities".

On page 31, lines 24 and 25, strike out "handicapped conditions" and insert in lieu thereof "disabilities".

On page 34, line 16, strike out "handicapped conditions" and insert in lieu thereof "disabilities".

On page 35, line 4, strike out "handicapped individuals" and insert in lieu thereof "individuals with disabilities".

On page 44, line 2, after "sites," insert "accommodations for individuals with disabilities".

On page 49, line 11, strike out "handicapped conditions" and insert in lieu thereof "disabilities".

On page 53, line 3, strike out "handicapped conditions" and insert in lieu thereof "disabilities".

On page 53, line 4, strike out "; and" and insert in lieu thereof a semicolon.

On page 53, line 9 after the semicolon insert "and".

On page 53, between lines 9 and 10, insert the following new subparagraph:

"(C) service in programs to assist elderly, disabled, poor, and homeless individuals obtain meaningful employment;"

On page 63, between lines 6 and 7, insert the following new subsection:

(d) Accommodations for Individuals with Disabilities.—In accordance with the nondiscrimination provisions of section 174, each training program shall provide reasonable accommodations for individuals with disabilities.

On page 70, line 5, strike out "handicap" and insert in lieu thereof "disability".

On page 79, line 19, strike out "handicap" and insert in lieu thereof "disability".

GORTON AMENDMENT NO. 1276

Mr. GORTON proposed an amendment to the bill S. 1430, supra, as follows:

At page 46 of the substitute amendment, line 19 after "program," insert the following: "for which a grant has been made to the Secretary of Agriculture, Secretary of Interior, or the director of ACTION."

D'AMATO AMENDMENT NO. 1277

Mr. HATCH (for Mr. D'AMATO) proposed an amendment to the bill S. 1430, supra, as follows:

At the appropriate place in the bill insert the following:

"All programs receiving grants provided under this Act shall be subject to the Drug-Free Workplace Requirements for Federal Grant Recipients under section 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702-707)."

HATCH AMENDMENT NO. 1278

Mr. HATCH proposed an amendment to the bill S. 1430, supra, as follows:

At page 111, of the substitute offered by Senator Kennedy, strike all after line 12 through and including line 5, page 115, and insert in lieu thereof the following:

SEC. 302. AUTHORITY.

(a) The President is authorized to designate a private, nonprofit organization (hereafter referred to as the Foundation) to receive funds pursuant to section 401(a)(7), upon his determination that such organization is capable of carrying out the undertakings described in section 302. Any such designation by the President shall be revocable.

(b) Nothing in this Act shall be construed either (i) to cause the Foundation to be deemed an agency, establishment, or instru-

mentality of the United States Government, or (ii) to cause the directors, officers or employees of the Foundation to be deemed officers or employees of the United States.

SEC. 304. GRANTS TO THE FOUNDATION.

(a) Funds made available pursuant to sections 303 and 401(a)(7) shall be granted to the Foundation by a department or agency in the executive branch of the United States Government designated by the President—

(1) to assist the Foundation in carrying out the undertakings described in section 302; and

(2) for administrative expenses of the Foundation.

(b) Notwithstanding any other provision of law, the Foundation may hold funds granted to it pursuant to this Act in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a) of this section, and may retain for such purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

SEC. 305. ELIGIBILITY OF THE FOUNDATION FOR GRANTS.

(a) Grants may be made to the Foundation pursuant to this Act only if the Foundation agrees to comply with the requirements specified in this Act. If the Foundation fails to comply with the requirements specified in this Act, additional funds shall not be released until the Foundation brings itself into compliance with these requirements.

(b) The Foundation may use funds provided by this Act only for activities and programs consistent with the purposes set forth in sections 302 and 304.

(c) The Foundation shall not issue any shares of stock or declare or pay any dividends.

(d) No part of the funds available to the Foundation shall inure to the benefit of any board member, officer, or employee of the Foundation, except as salary or reasonable compensation for services or expenses. Compensation for board members shall be limited to reimbursement for reasonable costs of travel and expenses.

(e) No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation that affects his or her financial interests or the financial interests of any corporation, partnership, entity, or organization in which he or she has a direct or indirect financial interest.

(f) The Foundation shall not engage in lobbying or propaganda for the purpose of influencing legislation, and shall not participate or intervene in any political campaign on behalf of any candidate for public office.

(g) During the second fiscal year in which funds are granted to the Foundation pursuant to this Act, the Foundation shall raise from private sector donations an amount equal to at least one-fourth of any funds granted to the Foundation pursuant to this Act in that fiscal year. Funds shall be released to the Foundation during the fiscal year only to the extent that this matching requirement has been met.

(h) The accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the

annual report required by subsection (l) of this section

(i) So long as the Foundation is receiving grants pursuant to this Act, the accounts of the Foundation may be audited at any time by any agency designated by the President. The Foundation shall keep such records as will facilitate effective audits.

(j) So long as it is receiving grants pursuant to this Act, the Foundation shall be subject to appropriate oversight procedures of the Congress.

(k) The Foundation shall ensure—

(i) that any recipient of financial assistance provided by the Foundation from funds granted pursuant to this Act keeps separate accounts with respect to such assistance and such records as may be reasonably necessary to disclose fully (i) the amount and the disposition by such recipient of the assistance received from the Foundation, (ii) the total cost of the project or undertaking in connection with which such assistance is given or used, (iii) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and (iv) such other records as will facilitate effective audits; and

(2) that the Foundation, or any of its duly authorized representatives (including any agency designated by the President pursuant to subsection (i) of this section), shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to assistance provided from funds granted pursuant to this title.

(l) The Foundation shall submit to the President and to the Congress an annual report, which shall include a comprehensive and detailed description of the Foundation's operations, activities, financial condition, and accomplishments for the preceding fiscal year. This report shall be submitted not later than three months after the conclusion of any fiscal year in which the Foundation receives grants pursuant to this Act.

ARMSTRONG (AND OTHERS) AMENDMENT NO. 1279

Mr. ARMSTRONG (for himself, Mr. BOSCHWITZ, Mr. COATS, Mr. GORTON, Mr. GRAMM, Mr. LOTT, Mr. MCCAIN, and Mr. MCCLURE) proposed an amendment to the bill S. 1430, supra, as follows:

At an appropriate place in the bill insert the following new section:

SEC. 1-2503 of the District of Columbia Code (1981 edition) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) Nothing in this chapter shall be construed to bar any organization or entity from denying, restricting, abridging, or conditioning the participation of any adult homosexual person or adult bisexual person in any program or activity that—

"(1) educates, coaches, or trains any minor, or

"(2) holds out the adult as a role model, mentor, or companion to any minor."

CLEAN AIR ACT AMENDMENTS

SPECTER (AND METZENBAUM) AMENDMENT NO. 1280

(Ordered to lie on the table.)

Mr. SPECTER (for himself and Mr. METZENBAUM) submitted an amend-

ment intended to be proposed by them to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes; as follows:

At the appropriate place, insert the following new title:

TITLE TAX CREDIT FOR ACID RAIN REDUCTION EQUIPMENT

SEC. TAX CREDIT FOR EQUIPMENT TO MEET ACID RAIN REDUCTION STANDARDS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

"SEC. 38. ACID RAIN CONTROL EQUIPMENT.

"(a) ALLOWANCE OR CREDIT.—There shall be allowed as a credit for any taxable year an amount equal to 20 percent of the taxpayer's qualified investment in qualified acid rain control property for such taxable year.

"(b) QUALIFIED ACID RAIN CONTROL PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified acid rain control property' means tangible property—

"(A) which—

"(i) is required to be installed by reason of the phase I sulfur dioxide emission limitations under title IV of the Clean Air Act (as in effect after the Clean Air Act Amendments of 1990), and

"(ii) reduces sulfur dioxide emissions by 65 percent or more at the source (or sources) in connection with which such property is installed, or

"(B) which is installed on or in connection with property described in subparagraph (A).

"(2) ONLY DEPRECIABLE PROPERTY ELIGIBLE.—The term 'qualified acid rain control property' includes only—

"(A) property to which section 168 applies (without regard to any useful life), or

"(B) any other property—

"(i) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

"(ii) which has a useful life (determined at the time the property is placed in service) of 3 years or more.

"(3) PROPERTY MUST BE NEW.—

"(A) IN GENERAL.—The term 'qualified acid rain property' includes only property the original use of which commences with the taxpayer.

"(B) RECONSTRUCTION.—For purposes of subparagraph (A), a rule similar to the rule of the last sentence of section 48(b)(1) shall apply.

"(4) CERTAIN OTHER REQUIREMENTS.—In determining whether property is qualified acid rain control property, rules similar to the rules of the following provisions of section 48(a) shall apply:

"(A) Paragraph (2) (relating to property must be used predominately in the United States).

"(B) Paragraphs (4) and (5) (relating to exclusion of property of certain tax-exempt organizations, governmental units, and foreign persons and entities).

"(C) Paragraph (7) (relating to property completed abroad or predominately of foreign origin).

"(c) QUALIFIED INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified investment' means, with respect to any taxable year, the basis of the qualified acid rain control property placed in service during such taxable year.

"(2) QUALIFIED PROGRESS EXPENDITURES.—A taxpayer may elect to increase the qualified investment of the taxpayer for any taxable year by the qualified progress expenditures of the taxpayer for such taxable year. For purposes of this paragraph, qualified progress expenditures shall be determined in the same manner as under section 46(d).

"(3) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—In determining qualified investment, rules similar to the rule of section 46(e) shall apply.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—The credit allowable under subsection (a) for any taxable year shall not exceed—

"(A) the sum of—

"(i) the taxpayer's minimum tax liability under section 55(a) for such taxable year, plus

"(ii) the taxpayer's regular tax liability for such taxable year (as defined in section 26(b)), over

"(B) the sum of the credits allowable against the taxpayer's regular tax liability under subparts A and D of this part and sections 27, 28, and 29.

"(2) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an acid rain control credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an acid rain control credit carryforward to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit under subsection (a) for such years. If any portion of such excess is a carryback to a taxable year beginning on or before the date of the enactment of this section, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit shall be carried to the earliest of the 18 taxable years to which such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in paragraph (1), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATIONS.—The amount of the unused credit which may be taken into account under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(c) RECAPTURE UPON DISPOSITION.—

"(1) IN GENERAL.—If, during any taxable year, qualified acid rain control property is disposed of (or otherwise ceases to be such property with respect to the taxpayer) before the close of the 5-year period beginning on the date such property was placed in service, the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under this section for all taxable years which would have resulted solely from reducing to zero the