(1) analysis of the direct and indirect impacts of Federal rules on the private sector, State and local government, and the Federal Government;

(2) estimates of the costs and benefits of each rule that is likely to have a gross annual effect on the economy of $100,000,000 or more in increased costs; and

(3) recommendations from the Director and public comments to reform or eliminate any Federal regulatory program or program element that is inefficient or is not a sound use of national resources.

TITLE VII—SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1996

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'' to be used in connection with investigations of arson at religious institutions, $12,011,000, available upon enactment of this Act and to remain available until expended.

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading [for Tax Systems Modernization] in Public Law 104–52, [$12,011,000] *$16,500,000* are rescinded.

[TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds appropriated by this Act shall be available to pay any amount to, or to pay the administrative expenses in connection with, any health plan under the Federal employees health benefit program, when it is made known to the Federal official having authority to obligate or expend such funds that such health plan operates a health care provider incentive plan that does not meet the requirements of section 1876(i)(8)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(8)(A)) for physician incentive plans in contracts with eligible organizations under section 1876 of such Act.]

This Act may be cited as the ''Treasury, Postal Service, and General Government Appropriations Act, 1997''.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have conferred with the manager of the bill that is pending and have sought 15 minutes as if in morning business. I do not think I will use that but I want to speak to a juvenile justice bill which I am going to introduce. I ask consent that I be permitted to speak up to 15 minutes.

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

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2062 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DOMENICI. I yield the floor and thank the Chair for recognizing me. 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. HELMS. 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. HELMS. I thank the Chair.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, in February 1992, it occurred to me one day after reading some mail from people in North Carolina that the Senate wasn't paying very much attention to the steadily rising Federal debt, and I decided on that February afternoon in 1992 that I would begin a daily report to the Senate specifying the exact Federal debt as of close of business the day before down to the penny. Of course, on Monday it would have to be close of business the previous Friday.

We have not missed a day in making that report. There have been a few times when I was absent when fellow Senators made the report for me.

In any case, Mr. President, at the close of business yesterday, Monday, September 9, the Federal debt of the United States stood at $5,214,144,675,542.25.

Five years ago, on September 9, 1991, the record shows that the Federal debt stood at $3,618,482,000,000 rounded off.

And 10 years ago, September 9, 1986, the Federal debt stood at $2,106,631,000,000.

Just for the interest in it, we checked the Federal debt of 15 years ago—that was September 9, 1981—at which time the Federal debt stood at $977,439,000,000.

So those figures alone will show you the escalation of the spending practices of the Congress of the United States, and all the irresponsibility of that lies like a dead cat on the doorstep of the Congress of the United States, where I work and where Members of the House of Representatives work.

Twenty-five years ago, if you want to go back that far, on September 9, 1971, the Federal debt stood at $415,807,000,000. This report reflects an increase of more than $4 trillion in Federal debt during the 25 years from 1971 to 1996. If you want the precise figure, the Federal debt has increased during the past 25 years by $4,798,337,675,542.25.

Mr. President, this is a perfect outrage imposed upon the next generation and the next generation after that and the next generation after that, because they are the ones who are going to have to pay this debt. They are going to have to pay the interest on it, which is enormous. We have all of these promising politicians running around the countryside these days promising everything under the Sun for the taxpayers to pay for, which means that it will be bought on credit and not a thing will be done about this Federal debt. That is precisely why in February 1992 I began to make these reports.

I might add as a matter of interest, Mr. President, that one day when I came to make this report, I stopped in the cloakroom and Senators were waiting for a rollcall vote that had been scheduled by unanimous consent about 10 minutes hence. Just to see what the answers would be, I asked Senators how many million there were in a trillion. They scratched their heads, and I got two or three different answers. Only one of them was correct. Of course, as every schoolboy knows, or is supposed to know, there are a million million in a trillion, and the coming generations are going to have to deal with $5 million million-plus in debt run up by the Congress of the United States.

I thank the Chair. I yield the floor, and 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. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. SHELBY. Mr. President, I ask unanimous consent that Paul Irving, a legislative fellow with the subcommittee, and Bruce Townsend, a fellow with the office of Senator MIKULSKI, be granted floor privileges during deliberations on H.R. 3756, the Treasury, Postal Service, and general Government appropriations bill.

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

Mr. SHELBY. Mr. President, today with my distinguished ranking member, Senator KERREY, I bring before the Senate the Appropriations Committee recommendations on fiscal year 1997 appropriations for the Department of the Treasury, the U.S. Postal Service, the Executive Office of the President and certain independent agencies.

The bill we are presenting today contains total funding of $23,487,761,000. This bill is $324,007,000 above the appropriations provided in fiscal year 1996. The mandatory accounts make up $320,850,000 of this increase. In other words, this bill is $3,157,000 in discretionary spending above the fiscal year 1996 level.

Of the totals in this bill we are recommending $11,291,000,000 for new discretionary spending.

The $11,291,000,000 the committee proposes for domestic discretionary programs is $1.354 billion below the President's request. Let me repeat that, Mr. President. This bill is $1.354 billion below the President's fiscal year 1997 request. The fiscal year 1996 bill was $1.8 billion below the President's request. That is a reduction of $3.15 billion below what the President requested in 2 years.

Reaching this level has not been an easy task. We have had to make some very difficult decisions, while trying to ensure that funds are made available to

carry out essential Government services.

Mr. President, this bill includes $10,185,009,000 for the Department of the Treasury. The Treasury Department has varied responsibilities, the bulk of which are directed to the revenues and expenditures of this Government and law enforcement functions.

This bill includes $90,433,000 for payment to the Postal Service Fund for free mail for the blind, overseas voting, and a payment to offset previous shortfalls in revenue forgone funding.

The President receives $183,339,000 to exercise the duties and responsibilities of the Executive Office of the President.

This bill includes $657,724,000 for construction of new courthouses and Federal facilities. This funding provides the General Services Administration with the ability to let construction contracts for courthouses for which the construction schedule is slated in fiscal year 1997.

The courthouses funded in this bill are those listed as the top priority of the administrative office of the courts for fiscal year 1997.

There is $12.08 billion in mandatory payments through the Office of Personnel Management for annuitant and employee health, disability and retirement, and life insurance benefits. There is $850 million for other independent agencies.

Mr. President, this subcommittee continues to be a strong supporter of law enforcement. We have done what we can to ensure that the law enforcement agencies funded in this bill have the resources to do the job we ask them to do.

We have utilized the salaries and expenses account, as well as, funds from the Violent Crime Trust Fund to enhance law enforcement efforts.

In addition, the committee has provided funding over the President's request for the Nation's drug policy office. While I have been highly critical of this administration's previous commitment to combating the growing drug problem in this country, I fully support the efforts and leadership of the new drug czar, General Barry McCaffrey.

Under his leadership, it is my hope that the alarming rise in teen drug use can be turned back, before this country feels its tragic consequences—such as, more crime, more death, more young futures lost. Drugs are a plague that claim the hopes and dreams, the aspirations and goals, of our young people. We need to do more. This bill does more.

The fiscal year 1997 Treasury bill funds the Office of National Drug Control Policy at the President's request of $34,838,000 and provides $103 million for high-intensity drug trafficking areas.

While the committee has attempted to give the drug czar sufficient flexibility to address the high-intensity drug trafficking areas, the bill does encourage the drug czar to give high priority to certain areas of the country where the methamphetamine problem is overtaking many communities.

The committee has further provided an additional $13 million in funding within the Violent Crime Trust Fund to designate new HIDTAs.

In addition, the committee has provided $65 million for southwest border antidrug efforts, $83 million for air and marine interdiction and $45 million for procurement of an additional P–3AEW aircraft for detection and interdiction purposes.

There has been considerable discussion since this bill was reported from the subcommittee about the level of funding for the Internal Revenue Service.

Some have questioned overall funding in this bill for the IRS, but the major focus has been directed toward the committee's action regarding the IRS tax systems modernization or TSM program. I would like to take a few moments to describe how we arrived at the funding level for the IRS.

This bill includes $6,880,221,000 for the IRS; this total is $1.14 billion below the President's request and $468 million below the fiscal year 1996 appropriation. There are those, including the President, who have said—you have to fund the IRS at the requested level to ensure that tax systems modernization continues and that funds ''owed'' the Government are collected.

Mr. President, the IRS budget makes up approximately 65 percent of the committee's discretionary spending. Think about it—65 percent.

As the largest consumer of revenues under the committee's discretionary budget and competitor with equally important funding priorities in the budget, like law enforcement, the IRS is subject to reductions, which would otherwise have to come from these other important programs.

A dollar more for law enforcement, means a dollar less somewhere else—and this budget, which I believe to be consistent with the priorities of the President, reflects an emphasis on law enforcement, particularly drug enforcement.

While the Committee's funding for the IRS is significantly below the President's request—$1.14 billion and $468 million below last year's appropriated level—the Committee feels strongly that these funding levels are adequate, and more than justified given the dismal record of the Internal Revenue Service.

Mr. President, the IRS, until very recently, has refused to respond to bipartisan concerns that have been raised by the Congress and the General Accounting Office.

Its overall lack of financial accountability and failure to produce quantifiable results in tax systems modernization has done little to encourage the committee of the IRS's commitment to ensuring that funds appropriated are being spent wisely or effectively. The taxpayer deserves accountability, particularly from the IRS. But more than that, Mr. President, no taxpayer should be held to a level of accountability that even the IRS cannot meet.

The committee has gone to great lengths to ensure that the IRS is adequately funded, and that sufficient resources are provided for taxpayer assistance and tax return processing.

There is nothing in this bill which will inhibit the IRS from doing their job. Any forecasts of doom and gloom are not accurate.

We have spent a long time looking at IRS operations, especially tax systems modernization over the past 1½ years during my tenure as chairman. I worked with Senator KERREY, the ranking Democrat on this. Frankly, I am not pleased with what I have seen after the expenditure of millions of dollars.

TSM programs that the committee and the GAO have reviewed, have almost always come in late and over budget and have almost universally—universally, Mr. President—not lived up to expectations, despite hundreds of millions of dollars being spent. The Department of the Treasury has indicated the current program is off course.

They are not the only ones, though, who have reached that conclusion. The General Accounting Office and National Research Council have been highly critical of the direction TSM is headed.

I have stated many times that we must modernize the IRS. I will support that effort. To follow the current course, or lack of course, the IRS has chartered for TSM at this time would be irresponsible.

TSM is clearly not providing us with what we have been seeking and what taxpayers deserve.

Mr. President, I feel very strongly that the subcommittee would be abdicating its responsibilities if it did not take action.

Funds are provided in this bill to continue current information systems, but no money is available for further TSM development. I expect the Department's review board to take an active roll in ensuring corrections are made, and made soon.

When the Department of the Treasury and the Internal Revenue Service have shown that things are back on track, we can proceed with providing funds for programs that work. Let me repeat that—we will support programs that work and provide the IRS with the necessary tools to achieve efficiency and effectiveness.

Mr. President, this bill does not spend as much as the President would like. If it did, the subcommittee would be over a billion dollars above its allocation, and that is not the way to balance the budget.

Tough choices were made as said—in a way that attempted to reflect the priorities of the President and the Congress—law enforcement is plussed up across the board. It is, however, the result of long, hard hours of work on the

part of the members and the staff of this subcommittee.

I want to thank all of them for that effort. I believe it is workable and should be enacted.

I yield to Senator KERREY, the subcommittee's ranking member.

Mr. KERREY. Mr. President, as the distinguished Senator from Alabama, Chairman SHELBY, just indicated, we are bringing to the floor of the Senate recommendations on the fiscal year 1997 appropriations for the Department of Treasury, Postal Service, and independent agencies.

First of all, I thank Senator SHELBY for his dedicated work on this bill. He worked very long and hard on the difficult issues he has just outlined for Members, and throughout the process, as well, he has forged a very cooperative relationship not just with myself but with all the subcommittee members on both sides of aisle.

The subcommittee has achieved a balanced approach of dealing with the many programs and activities under the jurisdiction of the subcommittee while staying within the 602(b) allocation. This allocation is $11.081 billion, $1.6 billion below the administration's request. While required to make substantial reductions from the request level, I believe the program funding levels included in the bill are both fiscally responsible and very reasonable.

Senator SHELBY has discussed the major funding highlights, and rather than repeating those highlights, I will limit my comments to a few areas I would like to emphasize. As Senator SHELBY said, the IRS received $6.8 billion, 60 percent of the discretionary allocation, which is $1 billion lower than the administration's request, but it is $200 million above the House mark.

The reduction from the request reflects our decision to limit IRS spending to cost-effective and operational efforts. As you know, there have been continuing questions, as the chairman just indicated, concerning the TSM, the tax system modernization efforts, questions I am attempting to answer, as well, through my work on the subcommittee, as well as through the efforts of the newly formed IRS Restructuring Commission.

A June 1996 GAO report stated the IRS has not made adequate progress in correcting its management and technical weaknesses, nor have they fully implemented any of the GAO recommendations. In addition, the IRS does not have a process for selecting, controlling, and evaluating its technology investments. It does not have a clear basis for making investment decisions, and it does not have a complete procedure for requirements management, quality assurance, configuration management, project planning and tracking.

Finally, it does not have an integrated structural architecture or security and data architecture. The recommended funding in this bill is adequate to support ongoing operations and maintenance and to support those systems that have provided taxpayer assistance, such as Telefile and the Electronic File Transfer System.

Of the funds provided IRS, $200 million of non-TSM and $66 million of TSM funds may not be obligated until the Secretary of the Treasury consults with the Committee on Appropriations and provides criteria to explain the needs and priorities of the proposed programs. It is our hope that by fencing these funds, the IRS will develop an integrated systems architecture and that we can proceed toward completing a modernized tax system.

As I mentioned, I will continue to work with the IRS both through the subcommittee and the IRS restructuring commission to ensure they are moving in the right direction and that a modernized tax system will be provided to our citizens.

I believe, second, the administration is moving in the right direction. As the chairman indicated, I, too, strongly support the appointment of General McCaffrey as the head of the Office of National Drug Control Policy. This bill fully funds the administration's efforts. However, I continue to have a number of questions on the direction we are pursuing in the war against drugs.

I believe ONDCP must develop long-term measurable strategies for decreasing drug use and drug-related crimes. I want ONDCP to set standards for measuring success. I want these measures to show that the dollars being spent are keeping children from starting to use drugs, reducing the number of hard-core drug users, and limiting the amount of drugs coming into the country.

To ensure the law enforcement agencies can work in conjunction with the ONDCP to achieve these results, the subcommittee has increased the law enforcement funding levels to provide additional training and equipment, infrastructure investments in technologies on the Southwest border and, as the chairman stated, a P–3AEW aircraft for interdiction of illegal narcotics.

Through the violent crime reduction trust fund, we have continued funding for important crime reduction programs, such as gang resistance education and training, and FinCen enforcement programs.

In addition, we have provided funding above the request level to increase participation in the High Intensity Drug Trafficking Area, or the HIDTA Program.

A third area I want to mention, Mr. President, is the General Services Administration. We have provided, through the GSA, for Federal buildings funds, for the site, design, or construction of five courthouses. Funding for these court facilities is consistent with the courthouse construction criteria we established last year. The application of these criterion allowed us to choose specific court projects, as opposed to applying the House approach of applying across-the-board cuts to the entire construction program.

As Senator SHELBY indicated, we have also included funding for the five northern border stations, the construction of a Federal office building in Portland, OR, the site preparation for the Food and Drug Administration consolidation, the completion of a Veterans' Affairs office complex, and the environmental cleanup of the southeast Federal Center.

I also point out that this bill fully funds the administration's request for the Executive Offices of the President, the Federal Labor Relations Authority, the Merit Systems Protection Board, and the Office of Personnel Management.

Finally, funding increases are specified for the National Archives repairs and restoration account. These increases will provide much-needed repairs of two Presidential libraries: The Truman and Roosevelt Libraries and the National Archives headquarters facility. The funding level also indicates that we continue to support the Archives electronic access project. The Archives has recently provided us with a work plan for completing this important project to bring their files online and to provide a full catalog system. We are looking forward to the Archives making significant strides toward accomplishing this project in the near future.

However, Mr. President, I must raise an objection to the provision which provides funding of $500,000 to cover the attorneys' fees for those fired from the White House Travel Office. It is a genuine disagreement between the chairman and I—I believe the only one in the entire bill. This action, in my reasoned opinion, would set a bad precedent for Congress paying the attorney fees of an indicted individual. This is not a precedent I believe we should set.

Mr. President, that summarizes, as I see it, the bill's funding levels. We have tried to accommodate the numerous Member requests, and while it is difficult to always accommodate these requests, we have tried to include all those that were possible given funding restrictions. I also acknowledge the fine work done by the staff on this bill. They are Chuck Parkinson, Diane Hill, Hallie Hastert, Paul Irving, and others. I thank them for their helping in permitting us to bring this bill before the Senate.

I yield the floor.

Mr. SHELBY. Mr. President, we are trying to clear, with both sides, a number of matters. We have worked out a number of committee amendments, and we have several that we are trying to clear with the other side of the aisle at the moment. I want to take a minute to thank Senator KERREY for his leadership on the committee. We have had a number of hearings throughout the year. Some of them have been tough hearings. He has made a real contribution to the tax system changes that we envision in the future.

We have set up a task force that he is involved in. As a matter of fact, he suggested this to me a year or so ago, as he was not satisfied—and he worked on this committee before I had —with the modernization program of the Internal Revenue Service and thought that, of all the agencies in Government, Internal Revenue Service should be on the cutting edge of technology and should not be behind in any way. Some of us are concerned that maybe the IRS is getting behind. Getting behind what? The marketplace.

There has been a tremendous revolution in the software industry, and Senator KERREY and I both have talked and met with various people that are dealing in financial electronic software of various kinds. The market, it seems to me, is farther ahead in various areas than the IRS. This is not a good sign for the future of the IRS or the future of Government, because most people in America always thought—and I came to believe it—that the IRS had the best of everything and was on the cutting edge. But I will submit to you that they are not. I believe the Senator from Nebraska believes that. He is also interested in—and so am I—the task force to study the IRS and our tax laws and everything that goes with it. I believe we are going to get some good results out of that, some great recommendations. He may want to take a minute to talk about that.

Mr. KERREY. Mr. President, the chairman is quite right. Last year, during the conference deliberations—we had seen, throughout the last couple of years, a considerable accumulation of reports, specifically, the General Accounting Office evaluation of tax system modernization. While it has not all been a loss, there is no question that there has been significant disappointment and the evaluation of GAO is quite negative. I must point out that some of that difficulty is caused by us.

Earlier today, we actually had the first meeting of the restructuring of the commission. Commissioner Richardson appeared before that commission, observing that the mission statement itself very often does not connect to many of the things that are identified as great successes. Very specifically, the mission statement of the IRS is to collect taxes in the most cost-effective way possible. One of the things that we often don't look at is what does it cost us to collect the taxes, and how can we do it in a more cost-effective way, not just measuring the money we spend but the money the taxpayers spend to comply with the laws. One of the examples is we have this alternative minimum tax. There are about 4 million taxpayers that are identified as possibly candidates for paying this AMT. What has happened is, of 4 million taxpayers, 90 percent—3.6 million of that 4 million—after they have gone through all the work and hired the accountants to do the calculation of taxes, they discover they owe no taxes at all. The question is, what are the man and women hours and time on task?

That is substantial to collect a relatively small amount of money. What we have to do, in my judgment, is not just look at the cost-effectiveness of the IRS versus what they collect, but what kind of friction or cost is imposed out there for that taxpayer, either the households or the business, because they have substantial costs that are imposed. When I say ''sometimes we cause the problems,'' we passed a tax bill with 900 new changes that are required, and the President signed it and it goes into law. I asked the Commissioner this morning if she ever, in the 3½, or whatever years she has been in office, had a time when she has gone to the President and said, Mr. President, I urge you to veto the tax bill because this is going to make it difficult to accomplish the mix of keeping the IRS a cost-effective, low-cost operation, both in terms of the costs to the taxpayers and the costs to the people that are out there in the community. The answer to the question was, ''no,'' she never has. The day that starts to happen—the day the IRS Commissioner says to the President, you may want to do this for whatever the reason, but here is what it will cost the American taxpayers to fill out the forms and go through that, it seems to me that will be the day you are going to start to see the customer out there, the taxpayer, say they are finally understanding it.

We, very often, say here that we have to collect money to accomplish some social or economic good. We don't really think about what that taxpayer out there is going to have to go through in order to comply with the forms, the regulations, and the rules, and all the other sort of things to put in place.

But there is no question that we have a very, very serious problem in that we have to go from where we are now, which is we have expended $8 billion or $9 billion, thus far, on TSM, perhaps a great deal more than that, over a bit longer period of time. It depends on when you track it. We are really not much closer to where we needed to go when we started the whole process.

All of us understand that one of the most costly things that happen in tax collection is when a mistake is made—not by the taxpayer but by the IRS. When the IRS makes a mistake, that is an expensive thing to try to correct, whether it is giving somebody advice over the phone, or any mistake made in the entire system. Those mistakes are the most costly things of all to fix. So the more they can reduce the mistakes, the better off they are. The least costly environment of all, the least number of mistakes are the mistakes made in a paperless environment. Those transactions that are currently done, a limited number of transactions to be done without paper, have a very, very substantial difference in terms of mistakes versus the ones that continue to be done by paper, through all the processing centers.

So I hope, I say to my friend from Alabama, that we are able, in restructuring the commission, to come to the Congress, and all the stakeholders involved, and we are able to make some recommendations so that 10, 15 years from now, at some point in the future, people will say that it was worth spending a million dollars on. You did actually make some recommendations. I point out, Mr. President, that one of the things that I think makes that more likely rather than less, is Congressman PORTMAN and I are cochairs. He is from the House and he is also a Republican. My experience is that more often, some things you can't make bipartisan but we have a difficult subject. If you can make it bipartisan, you tend to make it more likely you are going to be successful. So I appreciate the Senator's support in the hearings.

Mr. President, I can tell you that there is no better cross-examiner than Chairman SHELBY when it comes to watching out for the taxpayer's money. There is no better cross-examiner than the Senator from Alabama when it comes to trying to make sure that the taxpayers are getting a good dollar's return on their investment, and I appreciate the Senator's support for this effort.

Mr. SHELBY. Mr. President, I again acknowledge the hard work and the leadership that the Senator from Nebraska, Mr. KERREY, has brought here. He is absolutely right. When we are dealing with something as complicated as the Internal Revenue Service modernization and taxes in general, it is going to take, I believe, as he does, a bipartisan effort to do this. If we can bring something out of this commission that we will listen to and do something about here that will modernize the IRS, that will help the taxpayers understand the system, will help the taxpayers keep more of their money without a lot of cumbersome involvement, we will be doing part of our job here today.

Mr. President, I ask unanimous consent that the committee amendments to H.R. 3756 be considered and agreed to en bloc, provided that no points of order be waived thereon and that the measure, as amended, be considered as original text for the purpose of further amendment, with the exception of the following amendments: Page 2, line 18; page 16, line 16 through page 17, line 2; page 80, line 20 through page 81, line 4; that portion of the amendment on page 129, line 20 through page 130, line 18.

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. No objection.

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

The committee amendments were considered and agreed to en bloc with the above noted exceptions.

The PRESIDING OFFICER. The Senator from North Carolina.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 2, LINE 18

Mr. HELMS. Mr. President, let me inquire of the Parliamentarian and the Chair, all committee amendments have been approved except one, is that my understanding? Except four.

The PRESIDING OFFICER. There are four committee amendments that have not been adopted.

Mr. HELMS. Very well. Will the clerk just reference them.

The PRESIDING OFFICER. The clerk will report the first excepted committee amendment.

The legislative clerk read as follows:

On page 2, line 18, strike the numeral and insert $111,348,000.

Mr. HELMS. That is subject to amendment, is that correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 5208 TO EXCEPTED COMMITTEE AMENDMENT ON PAGE 2, LINE 18

Mr. HELMS. On behalf of the distinguished occupant of the chair, Mr. THOMPSON, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for Mr. THOMPSON, for himself, Mr. HELMS, Mr. THURMOND, and Mrs. HUTCHISON, proposes an amendment numbered 5208 to the committee amendment on page 2, line 18.

The amendment is as follows:

At the end of the committee amendment insert the following:

No adjustment under section 5303 of title 5, U.S. Code, for Members of Congress and members of the President's Cabinet shall be considered to have taken effect in FY '97.

Mr. HELMS. Mr. President, the pending amendment that the distinguished Senator from Tennessee [Mr. THOMPSON] and I have offered forbids any Member of Congress, House or Senate, from receiving a pay raise or cost of living adjustment in the fiscal year 1997 that begins in a few days on October 1. Here we are, both Houses of Congress, asking the American people to make the sacrifices necessary to get the Nation's fiscal house in order, and it seems to me that all of us should be willing to forego even the thought of a pay increase.

Each day I make a formal report to the Senate specifying the staggering federal debt as of the close of business the previous day. Most of this enormous burden was run up by Congress in prior years. But, the point is that Congress alone is charged with the constitutional duty of authorizing and appropriating funds for Federal spending, and it's our responsibility to pay the debt down and live within our means. The activities of Congress, the timidity of Congress, the inclination to play politics with the public purse—all of this has brought us to a Federal debt that, as of close of business yesterday, stood at $5,214,144,675,542.25, or $19,625.30 for every man, woman and child in America on a per capita basis.

Mr. President, while we are systematically piling on to the arrearage which our children and grandchildren must bear, the notion that Congress deserves a pay raise is absurd.

Since I came to the Senate, interest on the money borrowed and spent by the Congress of the United States cost the American taxpayers over $3.5 trillion. Three trillion and 500 billion dollars, just to pay interest on excessive spending authorized and approved by the Congress. Just last year Congress spent over $235 billion on interest alone.

It is true, Mr. President, that the 104th Congress has garnered an impressive list of accomplishments. For the first time since Neil Armstrong walked on the moon, this Congress has enacted a balanced budget—which was vetoed to the glee of the national media. It has reformed the dilapidated welfare system; the President signed the bill, but immediately gutted part of it by issuing a host of waivers. Congress reined in the out-of-control trial lawyers and passed the Partial Birth Abortion ban, but both pieces of legislation were vetoed.) And Congress eliminated 270 wasteful Federal programs and agencies and succeeded in cutting year-to-year discretionary spending by $53 billion.

This Congress has done a lot, Mr. President, but we can't rest on our laurels. We're asking the American people to tighten their belts. And we should demonstrate our solidarity with them by rejecting the built-in congressional pay raises which, as Senator THOMPSON said last year, ''stick in the craw of the American people.'' It's the least we can do.

It is crucial that while the American people are making sacrifices and taking steps toward independence from the Federal Government, the Congress of the United States share in these sacrifices.

Americans need lower taxes, higher wages and better jobs. Only a growing economy can provide the society we want. Only a balanced budget—and proper tax policies—can provide an atmosphere in which the economy can approach the rate of growth of which it's capable. Until this is realized, Mr. President, Congress deserves no pay raise.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. HELMS. 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. HELMS. Mr. President, I ask the managers of the bill, in order to save a little time: Senator INHOFE has an amendment that will take no time at all. It will not require a vote or anything like that. I wonder if it would be in order, in the judgment of the managers of the bill, for me to set aside the pending amendment for the purpose only of Senator INHOFE's being recognized for his brief amendment. Would that be satisfactory?

Mr. SHELBY. I have no problem with that.

Mr. HELMS. I make that as a unanimous consent request.

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

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, it is not my intention to offer an amendment at this time, as I told the Senator from Oregon, but just to make a brief statement about the concern that I have with the bill in hopes that, when you come up with the management amendments, you will include the proposed amendment as a part of those. It should be noncontroversial. I cannot imagine anyone would be opposed to it.

Back in the 100th Congress, which is the year I was first elected to the other body, they passed Public Law 100–440, in that they made the requirement that the General Services Administration be required to hire up to, and maintain an average of, 1,000 full-time Federal positions for the full-time Federal Protective Officers. These are the people who serve as security in Federal buildings. Both the House and Senate versions have language that would take that section out.

When the Murrah Federal Office Building in Oklahoma was bombed, they, the GSA, had only provided security of one individual. It was from a company called Rent-A-Cop. That Rent-A-Cop individual, one individual, had to cover that building and several other buildings.

While it can never be known if the tragedy could have been averted, it is the opinion of the police officers from whom the American Federation of Government Employees solicited comments that any trained FPO would have noted the parked rental vehicle which carried the bomb and immediately raised questions about its presence.

It is also the opinion of the law enforcement community that the physical presence of FPO's at the Murrah Building would have served as a major deterrent to those who might have been contemplating committing that crime.

The current ratio is something in the neighborhood of one officer for every 21 buildings. If they complied with this, the GSA, they should have reached a ratio of 1 per 8 by 1992. They did not do this. I think, if we repeal this section, it is sending the wrong message out, saying we want to be more lenient in terms of protection in Federal buildings.

So I have an amendment that would merely delete that particular section that would repeal Public Law 100–440, section 10, and would allow the GSA to continue and encourage them to go ahead and comply with the law they should be complying with right now. That would be the intent. I only ask the two managers of the bill, when the

managers' amendments come up, that they give serious consideration to this.

Mr. SHELBY. Will the Senator from Oklahoma yield?

Mr. INHOFE. I will be happy to yield.

Mr. SHELBY. I, as the manager of the bill, along with Senator KERREY—we are going to try to work with you to make that part of the managers' amendment. We believe it will be. But if it is not, we will tell you and give you a chance to offer it on the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. It seems to me what the Senator is asking for is quite reasonable. We will work with him to try to get it done.

Mr. INHOFE. I thank the Senator and thank the Senator from North Carolina for yielding to me. I yield the floor.

Mr. HELMS. Mr. President, regular order. What is the pending business?

The PRESIDING OFFICER. The pending business is the amendment by the Senator from North Carolina.

Mr. THOMPSON. Mr. President, this amendment would deny the automatic cost-of-living adjustment [COLA] to Members of Congress.

Last year, I sponsored this very same amendment with the Senator from New Mexico, Senator DOMENICI. I believe now, as I did then, that this amendment is an important part of the efforts we have made in this Congress to balance the budget by the year 2002.

Mr. President, some might ask how passing an amendment requiring Members of Congress to forego a cost-of-living adjustment will achieve savings that will move us towards a balanced budget. The simple answer is that a pay freeze for Members of Congress will not produce significant budget savings. But, Mr. President, the savings that this amendment achieves is not the point. This amendment is important because of what it communicates to the American people. Let me take a minute to explain what I mean.

During this 104th Congress, we have debated many fundamental issues facing this country. While Republicans and Democrats still disagree on many of these issues, there are certain principles around which a consensus is developing.

Probably the most important of these principles is that we need to get our fiscal house in order to avoid national bankruptcy and to preserve the country that we have known for our children and grandchildren.

It is true that our national debt and interest on that debt are strangling us. We cannot sustain deficits endlessly in the future at the rate we have. It will cause interest rates to soar and national savings, investment and growth to plummet. If we continue on the path we have followed in the past, we will be leaving a legacy of significantly lower living standards to future generations.

Mr. President, I think we are in the beginning stages, finally, of facing up to these problems. Last year, this Congress sent the President the Balanced Budget Act, which will lead us to a balanced budget in the year 2002—for the first time in decades in this country. I regret that the President chose to veto this legislation. However, I do think that the Republicans in Congress have succeeded in convincing the President—however belatedly—that a balanced budget is both necessary and important.

As a consequence, I believe that we have a great opportunity to work together to solve this problem. Although we may differ on the means by which we solve it, I think we can certainly agree on the end that we must all work toward.

During this debate, I think that we in Congress have done a better job of communicating to the American people the level of sacrifice that is necessary to reach a balanced budget. People are beginning to realize that, if we are to solve this problem, we cannot have everything exactly as we have had it in years past. Sooner or later we are going to all have to make some sacrifices for the sake of our country. We will have to look at things like the rate of growth in non-discretionary spending, the cost of some of the major military engagements abroad, and the whole issue of cost-of-living increases, among other things.

Mr. President, the point of all of this is that everybody is going to have to pitch in, and the American people now know it. Nobody is going to get all of what they want. I feel there are very few Americans who are not willing to help, as long as they believe that they are being treated fairly, and that everyone is being asked to sacrifice.

The amendment we offer today is based upon the simple proposition that while we are asking the American people to make these adjustments, we must ask the same of ourselves. We certainly should not be having automatic cost-of-living increases for this body during this particular period of time. Automatic pay increases, where we do not even have to vote on them, stick in the craw of the American people, and further diminish the already low regard they have for Members of Congress.

Some people will say that freezing the pay of Members of Congress is a largely symbolic act. I agree. I have already stated that the turning back a COLA does not achieve much in budget savings. But, Mr. President, I believe that symbolism is important. We need to lead by example by showing the American people that we in Congress are willing to make a personal contribution to the effort of balancing the budget.

Mr. President, I think we have already begun to demonstrate to the American people that this body is willing to do its part. We have addressed the problems of gifts and free trips for Members of Congress. We have applied the laws to ourselves that have, for so many years, been applied to the American people. We have tried to face up to the pension issues which will bring us more into line with other employees and other people in the private sector. So, turning down an automatic cost-of-living increase this year—as we did last year—is a part of that overall picture.

In conclusion, Mr. President, I want to note that I did not decide to offer this amendment without giving thought to the impact that it would have on my colleagues in the Congress who have families with children and are faced with expenses for education and maintaining two separate residences. These individuals cannot continue to withstand indefinitely the erosion of purchasing power that this pay freeze represents. However, at this crucial time in our history, I believe that a pay increase is not appropriate. Since we have made significant progress on budget issues in these past 2 years, it is my hope that we can make even more progress and avoid the need for pay freezes in the future.

I urge my colleagues to support the Thompson-Helms amendment to continue the work we have started in this historic Congress.

Mr. HELMS. I do not know if there is further debate, Mr. President. That is up to the managers.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, we have no objection to the amendment, the Thompson amendment.

Mr. KERREY. Mr. President, if the Senator from Alabama will just withhold and give me a couple of minutes here?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. 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. KERREY. Mr. President, I ask unanimous consent Senator WELLSTONE, from Minnesota, be added as a cosponsor to this amendment.

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

Mr. KERREY. I am ready to proceed.

Mr. SHELBY. We have no objection to the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 5208) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WYDEN. Mr. President, I have an amendment involving managed care; 5206 is the number of the amendment.

The PRESIDING OFFICER. Does the Senator wish to amend the first committee amendment?

Mr. KERREY. If the Senator from Oregon would allow me to dispose of this, I have to dispose, I believe, of the underlying committee amendment that we just attached an amendment to.

Mr. President, I urge adoption of the underlying committee amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the underlying committee amendment, as amended.

The excepted committee amendment on page 2, line 18, as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5206 TO EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 16, LINE 16, THROUGH PAGE 17, LINE 2

(Purpose: To prohibit the restriction of certain types of medical communications between a health care provider and a patient)

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I have an amendment No. 5206, involving managed health care.

The PRESIDING OFFICER. Is the Senator attempting to amend the next committee amendment?

Mr. WYDEN. Yes.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

Excepted committee amendment beginning on page 16, line 16, through page 17, line 2.

Mr. WYDEN. Mr. President, I rise to offer an amendment which will add much-needed new protections for the sacred, confidential relationship between physicians and their patients. In doing so, I want to single out, on a bipartisan basis, the excellent work done by a number of Members of Congress on this issue.

In particular, I would like to single out Dr. GREG GANSKE, a Member of the House, a physician, a Republican. He has done excellent work with Congressman MARKEY in the House, and also to thank Senator KENNEDY, who joins me in this effort.

This matter of protecting the rights of patients in health maintenance organizations has been thoroughly bipartisan through this Congress, and I want to make sure that this body understands that there is a very strong track record of bipartisan support for this issue.

The PRESIDING OFFICER. If the Senator will suspend so we might have the amendment read. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself and Mr. KENNEDY, proposes an amendment numbered 5206 to the committee amendment on page 16, line 16, through page 17, line 2.

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

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

The amendment is as follows:

At the end of the Committee amendment, insert the following new title:

TITLE —PROTECTION OF PATIENT COMMUNICATIONS

SEC. 01. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This title may be cited as the ''Patient Communications Protection Act of 1996''.

(b) FINDINGS.—Congress finds the following:

(1) Patients need access to all relevant information to make appropriate decisions, with their physicians, about their health care.

(2) Restrictions on the ability of physicians to provide full disclosure of all relevant information to patients making health care decisions violate the principles of informed consent and practitioner ethical standards.

(3) The offering and operation of health plans affect commerce among the States. Health care providers located in one State serve patients who reside in other States as well as that State. In order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in one State as well as those operating among the several States.

SEC. 02. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) IN GENERAL.—

(1) PROHIBITION OF CERTAIN PROVISIONS.—Subject to paragraph (2), an entity offering a health plan (as defined in subsection (d)(2) may not include any provision that prohibits or restricts any medical communication (as defined in subsection (b)) as part of—

(A) a written contract or agreement with a health care provider.

(B) a written statement to such a provider or

(C) an oral communication to such a provider.

''(2) CONSTRUCTION.—Nothing in this section shall be construed as preventing an entity from exercising mutually agreed upon terms and conditions not inconsistent with paragraph (1), including terms or conditions requiring a physician to participate in, and cooperate with, all programs, policies, and procedures developed or operated by the person, corporation, partnership association, or other organization to ensure, review, or improve the quality of health care.

(3) NULLIFICATION.—Any provision described in paragraph (1) is null and void.

(b) MEDICAL COMMUNICATION DEFINED.—In this section, the term ''medical communication'' means a communication made by a health care provider with a patient of the provider (or the guardian or legal representative of such patient) with respect to the patient's physical or mental condition or treatment options.

(c) ENFORCEMENT THROUGH IMPOSITION OF CIVIL MONEY PENALTY.—

(1) IN GENERAL.—Any entity that violates paragraph (1) of subsection (a) shall be subject to a civil money penalty of up to $25,000 for each violation. No such penalty shall be imposed solely on the basis of an oral communication unless the communication is part of a pattern or practice of such communications and the violation is demonstrated by a preponderance of the evidence.

(2) PROCEDURES.—The provisions of subsection (c) through (l) of section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) shall apply to civil money penalties under paragraph (1) in the same manner as they apply to a penalty or proceeding under section 1128A(a) of such Act.

(d) DEFINITIONS.—For purposes of this section:

(1) HEALTH CARE PROVIDER.—The term ''health care provider'' means anyone licensed or certified under State law to provide health care services.

(2) HEALTH PLAN.—The term ''health plan'' means any public or private health plan or arrangement (including an employee welfare benefit plan) which provides, or pays the cost of, health benefits, and includes an organization of health care providers that furnishes health services under a contract or agreement with such a plan.

(3) COVERAGE OF THIRD PARTY ADMINISTRATORS.—In the case of a health plan that is an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974), any third party administrator or other person with responsibility for contracts with health care providers under the plan shall be considered, for purposes of this section, to be an entity offering such health plan.

(e) NON-PREEMPTION OF STATE LAW.—A State may establish or enforce requirements with respect to the subject matter of this section, but only if such requirements are consistent with this title and are more protective of medical communications than the requirements established under this section.

(g) EFFECTIVE DATE.—Subsection (a) shall take effect 180 days after the date of the enactment of this Act and shall apply to medical communications made on or after such date.

The PRESIDING OFFICER. The Senator can continue.

Mr. WYDEN. Mr. President, again, this amendment involves some very important rights with respect to consumer protection as it relates to health care practitioners, health care plans and the fact that it appears that some physicians are actually gagged in terms of what they can tell their patients about their illnesses and their treatment.

These gag provisions often are included in contracts for purely financial reasons. They limit the kinds of therapies that physicians or other licensed health care practitioners may recommend. It can restrict a practitioner from recommending a patient consult a physician outside a plan or go to a facility outside the plan's network.

In addition, these kinds of approaches may even prohibit a practitioner from discussing financial incentives or penalties physicians may be subject to based on treatments that are recommended or ignored, in the case of an individual physician.

Mr. President, the preamble of the Hippocratic oath tells physicians, ''First, do no harm.'' The message of these gag restrictions, unfortunately, is, ''First, support the bottom line.'' That is not good health care, and it is certainly not good managed care.

Several months ago, the Washington Post cited a startling example involving Mid-Atlantic Medical Services health plans, a large Washington metro area provider. This plan wrote a letter to network practitioners informing them that:

Effective immediately, all referrals from (the plan) to specialists may be for only one visit.

And in bold type the letter stated:

We are terminating the contracts of physicians and affiliates who fail to meet the performance patterns for their specialty.

Obviously, this is a bad deal for patients on two counts. First, the patients may not be getting the kind of health care that is needed.

Second, the plan may restrict the physician from informing the patient about referral restrictions so the patient doesn't even know whether they are being medically shortchanged via the plan's policy.

In my home State of Oregon, where we do have a great number of managed health care services and plans, our State law specifically prohibits these kinds of provisions. Many managed care plans in our State are offering good quality services. They are able to do it in a way that allows them to be both patient-oriented and consumer-friendly and still be sensitive to their financial needs.

Unfortunately, even in our State, a State where there are good managed care plans, problems can develop. For example, an orthopedic surgeon in Portland recently was in a situation where their managed care plan demanded that this particular physician diagnose problems in patients apart from the ones for which they were referred. He was, in effect, in a situation where he was told to keep his mouth shut and instead re-refer those particular patients back to their primary care physician.

This physician wrote to us:

This is extremely disappointing to patients, as you might imagine. This requires more visits on their part to their primary care physician and then back to me, which is extremely inefficient.

Another physician, a family practice physician in rural Enterprise, OR, wrote that this antigag legislation is needed because ''when a physician recommends medical treatment for a patient and a plan denies coverage for that treatment, patients and physicians need an effective mechanism to challenge the plan.''

I think it is understood that the free flow of information between doctors and patients is the very foundation of good health care. State legal protections on this matter vary. Some States have taken steps to limit these gag rules, but one of the reasons that I come to the floor today and why this legislation has received strong bipartisan support is that I think it is time for a national standard to deal with a national problem.

This amendment is rifle-shot legislation prohibiting only oral gag provisions in contracts or in a pattern of oral communications between plans and practitioners that limit discussion of a patient's physical or mental condition or treatment options. Health plans would still be able to protect and enforce provisions involving all other aspects of their relationship with their practitioners, including the confidentiality of proprietary business information.

In developing this amendment, Mr. President, I and others have talked with many who offer managed care health services, as well as practitioners and consumer advocates. Our enforcement provision specifies penalties for violations by plans of up to $25,000 per event. The amendment also specifies that State laws which meet or exceed the Federal standard set herein will not be preempted by Federal law.

I would like to point out to my colleagues that this amendment has been endorsed by the Association of American Physicians and Surgeons, the American Association of Retired Persons, the Center for Patient Advocacy, Citizen Action, Consumers Union, the American College of Emergency Physicians and a number of other organizations. I ask unanimous consent to have printed in the RECORD letters from these groups.

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

AUGUST 1, 1996.

Hon. RON WYDEN,
259 Russell Senate Office Building,
Washington, DC.

DEAR SENATOR WYDEN: We are writing to express our strong support for ''The Patient Communications Protection Act.''

As you know, it has become common for insurers to incorporate clauses or policies into providers' contracts that restrict their ability to communicate with their patients. Such ''gag clauses'' seriously threaten the quality of care for American patients. Not only do gag clauses deny patients the fundamental right to make a fully informed decision about the care they receive, but also they prevent health care providers from delivering the highest quality of care.

Your legislation would prohibit the use of gag clauses. By opening the lines of communication between patients and their physicians, the bill helps to ensure that the practice of medicine occurs in the doctors office not in the corporate boardroom.

We, at the Center for Patient Advocacy, applaud your efforts in behalf of American patients. We look forward to working with you to secure passage of the Patient Communications Protection Act.

Sincerely,

NEIL KAHANOVITZ, M.D.,
President and Founder.
TERRE MCFILLEN HALL,
Executive Director.

OREGON MEDICAL ASSOCIATION,
Portland, OR, July 22, 1996.

Hon. RON WYDEN,
U.S. Senate, Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR WYDEN: Thank you for asking for input from the Oregon Medical Association prior to your introduction of the Patient Communication Act of 1996. The ''gag rules'' decreed by some of the managed care organizations would, indeed, make a reasonable person gag. We appreciate your interest in halting such activities and your intent to prohibit by federal law such draconian practices. I know how much you value and how well you understand the necessity of open communication between patients and their physicians. Such rules, and the knowledge that such rules exist, undermine the trust that patients absolutely must have for their physicians if the relationship is to be of value.

As you know, we here in the O.M.A. introduced and orchestrated the 1995 state legislature's passage of the Oregon Patient Protection Act which prohibited ''gag clauses'' in managed care contracts here in Oregon, as you are now intending to do at the federal level. As usual, your state is out in front showing the way in health care.

We appreciate your sharing and exchanging ideas and apprising us of pending legislation and we value such dialogue. Please keep us informed of the progress of this bill, on which we certainly are in agreement.

Sincerely yours,

FRANK J. BAUMEISTER, Jr., M.D.,
President.

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, August 30, 1996.

Hon. RON WYDEN,
Russell Senate Office Building, U.S. House of Representatives, Washington, DC.

DEAR SENATOR WYDEN: The National Committee to Preserve Social Security and Medicare, on behalf of its 5.5 million members and supporters, endorses S. 2005, the ''Patient Communications Protection Act of 1996.'' By addressing a concern health care providers and patients may have with managed care, this bill may encourage Medicare beneficiaries to enroll in managed care plans.

This bill will encourage full and open communication between physicians and their patients, which are vital to the prevention of and recovery from illness. Frank discussions cannot occur if providers are prohibited by health plans from disclosing all available treatment options. In addition, the use by some managed care companies of financial incentives to limit costly care also limits communication between the provider and the patient.

Managed care enrollees have a right to expect that they will receive appropriate care for their medical condition, without regard to the cost to the managed care company. The best way to ensure that appropriate care is given to foster full communication between provider and patient.

We applaud your effort to advance the ''Patient Communications Protection Act'' and look forward to working with you toward final enactment of this important bill.

Sincerely,

MARTHA A. MCSTEEN,
President.

ASSOCIATION OF AMERICAN
PHYSICIANS AND SURGEONS, INC.,
Tucson, AZ, July 29, 1996.

Hon. RON WYDEN,
Russell Senate Building,
Washington, DC.

DEAR SENATOR WYDEN: The Association of American Physicians and Surgeons supports your efforts to protect the sanctity of the patient-physician relationship with the ''Patients Right to Know Act of 1996.''

Our association strongly supports the liberty of contract and freedom of association. However, such liberty has bounds. Contracts of adhesion are immoral, unjust and should be unlawful. Patients are being exploited by powerful organizations.

Patients should be able to rely upon their physicians' ethics. However, today certain organizations are gaining the economic power to exclude and financially destroy conscientious physicians who place their obligations to the patient ahead of the interests of the ''plan.'' Restrictions on communication with our patients not only undermine quality of care, but are a blatant violation of the Hippocratic Oath. Prohibition of ''gag rules'' is a crucial step toward protecting patients.

Contracts which restrict physicians' freedom to communicate their best judgment are only one of the most egregious violations of patients' rights.

AAPS believes Congress should consider legislation which would protect patients'

right to choice, confidentiality, the ability to privately contract, and to receive full advance disclosure of the terms of their insurance/health care plan in plain language. The AAPS ''Patient's Bill of Rights'' which will be introduced as a Congressional resolution by Rep. Linda Smith, addresses those issues. We hope it will serve as a model and catalyst for future legislation.

Information is the best prescription. Prohibition of ''gag clauses'' is the first step in that direction, and we hope it sets the stage for additional patient protections to come from the 104th Congress.

Sincerely,

JANE M. ORIENT, M.D.,
Executive Director.

AMERICAN COUNSELING ASSOCIATION,
Alexandria, VA, August 20, 1996.

Hon. RON WYDEN,
U.S. Senate, Russell Senate Building, Washington, DC.

DEAR SENATOR WYDEN: I am writing on behalf of the American Counseling Association (ACA), the nation's largest nonprofit organization representing licensed and certified professional counselors, to express our support for your legislation S. 2005, the Patient Communications Protection Act of 1996. As behavioral healthcare providers, professional counselors would be greatly helped by your legislation. However, we could appreciate your consideration of a minor change in the bill's definition of a ''health care provider'' from ''anyone licensed under State law to provide health care services . . .'' to ''anyone licensed or certified under State law to provide health care services . . .''

Currently, 33 states—including the State of Oregon—and the District of Columbia license professional counselors to provide behavioral healthcare services to their residents. In eight other states—including Arizona, Kentucky, Maryland, New Hampshire, New Mexico, Rhode Island, Washington, and Wisconsin—professional counselors are certified, and thus would not be considered ''health care providers'' under S. 2005. Attached for your information is a survey comparing state policies regarding licensure and certification.

We have discussed this issue with Steve Jenning of your staff, who states he saw no reason this change couldn't be included in the legislation as it moves forward. Should you be agreeable to this proposed change, we would be happy to provide you with any assistance or further information you may need. Please use Scott Barstow of our Office of Government Relations as our contact on this issue, at (703) 823–9800 x234.

Thank you for your time and consideration. We look forward to working with you on behavioral healthcare issues and other areas of mutual concern.

Sincerely,

GAIL ROBINSON,
President.

AMERICAN CHIROPRACTIC ASSOCIATION,
Arlington, VA, July 30, 1996.

Hon. RON WYDEN,
Russell Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR WYDEN: Yesterday your office contacted the ACA seeking endorsement for a bill you are drafting to prohibit health insurance plans from restricting or limiting communication between health providers and patients about treatment options and procedures. This practice is most often employed by managed care plans through what are called ''gag rules.'' The ACA has endorsed legislation in the House, H.R. 2976, that would prohibit these gag rules, and we commend you for your efforts to eliminate this unfair practice.

However, in the materials your staff provided us (attached), it appeared that your proposal would limit the effect of the bill to only those communications between medical doctors and health plan participants. Thus, health plans technically would be permitted to continue to employ ''gag rules'' on communications between non-M.D. health providers and their patients enrolled in managed care plans.

Such language concerns the ACA, since as you are aware, doctors of chiropractic are not M.D.s, but rather are fully licensed health care providers so recognized in every state. It is our belief that any legislative proposal to prohibit the establishment of ''gag rules'' in managed care plans should apply to all providers licensed or otherwise recognized by a state authority. Since hundreds of millions of consumers utilize non-M.D. health professionals every year, we believe your proposal needs to be broadened.

Therefore, before endorsing your bill, ACA would strongly urge you to expand its definition of health provider to mean any health professional licensed, certified or registered in a state to provide health care services. This would extend the sensible protections your legislation offers to those patients who utilize the services of health professionals who are not M.D.s.

ACA appreciates and acknowledges your past efforts on behalf of the chiropractic profession and the tens of millions of patients who visit doctors of chiropractic every year. We hope that you will see fit to make the modifications that we have respectfully submitted in this letter.

Sincerely,

GARRETT F. CUNEO,
Executive Vice President.

Mr. WYDEN. Mr. President, let me also, in closing, quote briefly from a few of these endorsements.

The Association of American Physicians writes:

> Restrictions on communication with our patients not only undermine quality of care, but [constitutes] a blatant violation of the Hippocratic oath. Prohibition of ''gag rules'' is a crucial step toward protecting patients.

The Center for Patient Advocacy writes:

> It has become common for insurers to incorporate clauses or policies into providers' contracts that restrict their ability to communicate with their patients. Such gag clauses seriously threaten the quality of care for American patients.

Mr. President, let me conclude by saying that my part of the country was involved in the pioneering work in the managed care area. I have seen in my community—we have perhaps the highest concentration of managed Medicare in the country, with almost 50 percent of the older people in managed care—that it is possible to offer good quality managed care services.

What has concerned me is that there has been a pattern documented of managed care plans cutting corners and, unfortunately, imposing these gag clauses which get in the way of the doctor-patient relationship and the patient having the kind of information that a patient needs in order to make their own decisions about their health care.

I don't think that is what the health care future of our country is all about. As I talk to patients, and I have sought to work in this area since my days with the elderly before being elected to Congress, I find that patients today hunger for information. I suspect in the years ahead, you are going to have medical patients in our country at their computer looking at the Internet to get information about medical services, and it seems to contradict the future of American health care to have these gag rules which would cut off essential information in managed care plans between providers and plans and their patients.

Mr. President, I hope that my colleagues will support this legislation. It has received bipartisan support on both sides of the Hill. I hope this will receive a unanimous vote here in the Senate today.

Mr. KENNEDY. Mr. President, one of the most dramatic changes in the American health care system in recent years has been the growth of managed care plans such as health maintenance organizations, preferred provider organizations, point of service plans, and other types of network plans. Today, more than half of all Americans with private insurance are enrolled in such plans, and 70 percent of covered employees in businesses with more than 10 employees are enrolled in managed care. Between 1990 and 1995 alone, the proportion of Blue Cross and Blue Shield enrollees participating in managed care plans skyrocketed from just one in five to almost half. Even conventional fee-for-service plans have increasingly adopted features of managed care, such as ongoing medical review and case management.

In many ways, this is a positive development. Managed care offers the opportunity to extend the best medical practice to all medical practice. It emphasizes helping people to stay healthy, rather than simply caring for them when they become sick. It helps provide more coordinated and more effective care for people with multiple medical needs. It offers a needed antidote to the incentives in fee-for-service medicine to provide unnecessary care—incentives that have contributed a great deal to the high cost of care in recent years.

In fact, in 1973, Congress enacted the first Federal legislation to encourage HMO's, in recognition of these potential benefits for improving the quality of care.

At its best, managed care fulfills these goals. Numerous studies have found that managed care compares favorably to fee-for-service medicine on a variety of quality measures, including use of preventive care, early diagnosis of some conditions, and patient satisfaction. Many HMO's—including a number based in Massachusetts—have made vigorous efforts to improve the quality of care, gather and use systematic data to improve clinical decisionmaking, and assure an appropriate mix of primary and specialty care.

But the same financial incentives that can lead HMO's and other managed care providers to practice more

cost-effective medicine also can lead to under-treatment or inappropriate restrictions on specialty care, expensive treatments, and new treatments. As Dr. Raymond Scalettar, speaking on behalf of the Joint Commission on Accreditation of Health Care Organizations, recently testified,

The relative comfort with which the fee-for-service sector has ordered and provided health care services has been replaced with strict priorities for limiting the volume of services, especially expensive specialty services, whenever possible . . . [T]hese realities are legitimate causes for concern, because no one can predict the precise point at which overall cost-cutting and quality care intersect. The American public wants to be assured that managed care is a good value, and that they will receive the quality of care they expect regardless of age, type of disorder, existence of a chronic condition or other potential basis for discrimination.

In recent months a spate of critical articles in the press has suggested that too many managed care plans place their bottom line ahead of their patients' well-being—and are pressuring physicians in their networks to do the same. These abuses include failure to inform patients of particular treatment options; excessive barriers to reduce referrals to specialists for evaluation and treatment; unwillingness to order appropriate diagnostic tests; and reluctance to pay for potentially life-saving treatment. In some cases, these failures have had tragic consequences.

For example, David and Joyce Ching spent 12 weeks trying unsuccessfully to obtain a referral to a specialist from their primary care physician or gatekeeper in the MetLife HMO Plan. Not until David refused to leave the office of the gatekeeper physician was his wife referred to a specialist. Within 24 hours of her visit to a specialist, Joyce was diagnosed with cancer. She died 15 months later.

Alan and Christy DeMeurers had a similarly frustrating experience with their HMO. An HMO-provided oncologist recommended—in violation of the HMO rules—that Christy obtain a bone marrow transplant and made the necessary referral. The DeMeurers spent months trying to get this treatment. Not only did the HMO seek to deny the treatment, it attempted to deny the DeMeurers information about the treatment itself. By going outside the HMO plan, the DeMeurers were finally able to get answers to their questions about the treatment, and Christy was finally able to get the treatment recommended by her original oncologist.

In the long run, the most effective means of assuring quality in managed care is for the industry itself to make sure that quality is always a top priority. I am encouraged by the industry's recent development of a ''philosophy of care'' that sets out ethical principles for its members, by the growing trend toward accreditation, and by the increasingly widespread use of standardized quality assessment measures. But I also believe that basic Federal regulations to assure that every plan meets at least minimum standards is necessary.

With this amendment, the Senate has a chance to go firmly on record against a truly flagrant practice—the use of ''gag rules'' to keep physicians from informing patients of all their treatment options and making their best professional recommendations. Gag rules take a number of forms. They include:

Forbidding a physician to discuss treatment options not covered by the insurance plan or prior to consultation with officers of the plan;

Forbidding the referral of patients to specialists or facilities not participating in the plan.

So-called ''non-disparagement clauses'' in contracts, which are designed to keep network physicians from urging patients to switch to another plan, but which are also used to threaten physicians who recommend therapies the plan refuses to cover; rules forbidding physicians to inform patients of financial incentives or utilization management rules that could lead to denial of appropriate treatment; denying information to patients that a physician has been de-selected from a plan.

The amendment we are offering today targets the most abusive type of gag rule: those that forbid physicians to discuss all treatment options with the patient and make the best possible professional recommendation, even if that recommendation is for a noncovered service or could be construed to disparage the plan for not covering it. Our amendment forbids plans from ''prohibiting or restricting any medical communication'' with a patient ''with respect to the patient's physical or mental condition or treatment options.''

This is a basic rule which everyone endorses in theory, but which has been violated in practice. The standards of the Joint Commission on Accreditation of Health Care Organizations require that ''Physicians cannot be restricted from sharing treatment options with their patients, whether or not the options are covered by the plan.''

As Dr. John Ludden of the Harvard Community Health Plan, testifying for the American Association of Health Plans has said, The AAHP firmly believes that there should be open communications between health professionals and their patients about health status, medical conditions, and treatment options.''

Legislation similar to this amendment recently passed the House Commerce Committee on a unanimous bipartisan vote. President Clinton has strongly endorsed the proposal. The congressional session is drawing to close. Today, the Senate has the opportunity to act to protect patients across the country from these abusive gag rules. I urge the Senate to approve this amendment.

Mr. KERREY. Mr. President, I looked at this amendment, as has the chairman. It is similar to an amendment offered by the Senator from North Carolina. We are having some review done on it. It is likely that we might be willing to accept the amendment. If the Senator would be willing to wait for a bit until we can get that language reviewed to make sure there are no problems with it, it is likely we will be able to accept it, as we did the Senator from North Carolina's amendment.

Mr. SHELBY. Mr. President, we have not had a chance to really study the Wyden amendment yet. We have just had a quick opportunity to review the Senator's amendment. We need to look at it more closely, and we have some other people doing it. There are some other committees this could have tremendous impact on. We do not know what CBO will say about this, if anything. It might need to be scored, what the cost is, if any. We just started into the bill. We have a little time, I believe. I was wondering if the Senator from Oregon would set it aside and let us look at it.

Mr. WYDEN. Let me first say to my friend, this is not an issue involving the Congressional Budget Office.

Mr. SHELBY. Sure. That is good.

Mr. WYDEN. This is simply a matter of patients and managed care organizations not being subjected to these gag rules which keep them from having information. But I think that the request that the Senator from Alabama and the Senator from Nebraska makes is a reasonable one. I saw the thrashing we were going through at the beginning in the effort to work out a number of these amendments on a bipartisan basis. So I am happy to hold off a bit in terms of a vote to work further with the Senator from Nebraska and the Senator from Alabama.

Let me say, also, that I have noted that what the Senator from North Carolina has indicated he was interested in as well is quite similar to what I have sought to do. If anything, it just corroborates the proposition that we are discussing here today that there is bipartisan interest on both sides of Capitol Hill in this matter with the growth of managed care in our country.

This is an issue that millions of consumers care about that I think, for those of us who believe in managed care, has great potential. It is absolutely critical at this time to lock in these consumer protections and restrict these gag rules. From my previous experience in working with the Senator from Alabama, I know that he will pursue this in good faith. I ask that we have the vote a bit later and have an opportunity to consult further with the Senators from Nebraska and Alabama. I will be happy to yield.

Mr. SHELBY. If the Senator from Oregon will just yield briefly, this would give us a chance for both my staff and the staff of the Senator from Nebraska to look at this amendment and see what the significance of it is. We will be glad to get back with the Senator. Is that OK?

Mr. WYDEN. Yes.

Mr. KERREY. If I could comment on the substance as well. I think both the Senator from Oregon and the Senator from North Carolina identified a very important problem in the current health care system. He is quite right. It is one thing to say to a patient, I am not going to pay for a procedure; it is quite another to say you cannot talk amongst one another, or I am going to be prohibited from telling you about a procedure that you may say you want.

We are moving into an environment, not just on the private-sector side, but, also, in many of the Government programs in Medicare. Many of the States are using managed care with Medicaid as well. I think the Senator from Oregon has identified a very, very important consumer problem.

It is far better for us to give the consumer more information than they need, far better for us to make certain that the consumer, the patient, is well-informed of what the choices are, as opposed to on the basis of being concerned they might ask for something that I am going to say no to if I am running the managed care program. It is far better to give them the information, it seems to me, than to deny it to them.

So my hope is we will be able to clear both this and the amendment of the Senator from North Carolina, subject to no serious problems being raised.

Mr. WYDEN. If the Senator from Nebraska will allow me to reclaim my time, let me just say I think that both of you have indicated your desire to work on this. I very much appreciate your comments.

I say to Senator KERREY, I know of your interest in this health care issue and the fact that it has been longstanding. Let us say that for purposes of working on this in a bipartisan way, I will not request that the vote be taken right now and look forward to voting a little bit later today on this when the staffs have had a chance to work with it further.

Mr. KERREY. Right.

Mr. SHELBY. Mr. President, I ask unanimous consent that the pending committee amendments be temporarily laid aside.

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

Mr. SHELBY. Mr. President, I have a number of amendments I will offer that are either technical in nature or necessary to change the bill because of events which have occurred since the bill was reported or are of a noncontroversial nature. All of these amendments, I understand, have been cleared with Senator KERREY's staff.

Mr. KERREY. They have been cleared. We have no problem with the amendments.

AMENDMENT NO. 5209

(Purpose: Technical correction to H.R. 3756)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5209.

Mr. SHELBY. 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:

On page 131, line 13, strike ''and''.

On page 131, line 18, strike ''.'', and insert ''; and''.

Mr. SHELBY. Mr. President, this is a technical amendment which corrects an initial printing error. It has been cleared on both sides. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5209) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5210

(Purpose: To strike language to conform to other bill language)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5210.

Mr. SHELBY. 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:

On page 42, strike all from line 9 through line 15.

Mr. SHELBY. Mr. President, this, again, is a technical and conforming amendment which is necessary to conform with the committee action, striking section 116. It has been cleared on both sides of the aisle.

Mr. KERREY. Mr. President, I have no objection to this amendment.

Mr. SHELBY. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5210) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5211

(Purpose: Technical correction to H.R. 3756)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5211.

Mr. SHELBY. 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:

On page 4, line 4, line type ''$29,319,000''.

Mr. SHELBY. Mr. President, this, again, is a technical amendment. In printing the bill, the GPO failed to line type the figure in the House-passed bill. This amendment does this. It has been cleared on both sides of the aisle.

Mr. KERREY. We have no objection.

Mr. SHELBY. Mr. President, I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5211) was agreed to.

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

Mr. KERREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5212

(Purpose: To strike section 632)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5212.

Mr. SHELBY. 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:

On page 118, line 16 strike all through page 120, line 15.

Mr. SHELBY. Mr. President, this amendment strikes section 632 of the bill. The President signed a freestanding bill, H.R. 782, which includes the provisions of section 632, on August 1 of this year. This amendment has been cleared on both sides of the aisle.

Mr. KERREY. We have no objection to this amendment.

Mr. SHELBY. I urge adoption of the amendment.

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

The amendment (No. 5212) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5213

(Purpose: To strike Title VII)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5213.

Mr. SHELBY. 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:

On page 135, strike line 5 through line 20.

Mr. SHELBY. Mr. President, this amendment strikes title VII of the bill. Because of the urgency of investigations of the church fires, this language was included in the agriculture appropriations bill. The President signed that bill on August 6. I understand that this amendment has been cleared on both sides.

Mr. KERREY. It has been cleared. We have no objection.

Mr. SHELBY. I urge its adoption.

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

The amendment (No. 5213) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5214

(Purpose: To provide funding to the Postal Service for payment of nonfunded liabilities)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5214.

Mr. SHELBY. 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 34, after line 23 insert the following:

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department of the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $35,536,000.

Mr. SHELBY. Mr. President, this amendment before the Senate provides funding to the Postal Service for liabilities incurred by the former Post Office Department. The funds are paid to the Department of Labor for workmen's compensation claims.

Mr. President, this provision was inadvertently left out of the bill. It is a mandatory payment and does not have an impact on the discretionary funding in the bill.

This amendment, I understand, has been cleared on both sides of the aisle.

Mr. KERREY. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5214) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5215

(Purpose: To define and conform language for expenditure of funds for information systems of the Internal Revenue Service)

Mr. SHELBY. Mr. President, I have another amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5215.

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

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

The amendment is as follows:

On page 22, line 21 strike all from ''(modernized'' through ''systems'' on line 23, and insert: ''(development and deployment) and operational information systems''.

On page 23, line 14 strike all from ''to manage,'' through ''Management Office'' on line 17.

On page 23, line 18 strike ''and other necessary Program Management activities'' and insert: ''the Internal Revenue Service shall seek contractual support in managing, integrating, testing and implementing''.

On page 23, line 22 strike all from ''none of'' through ''program without'' on page 24, line 3.

On page 24, line 5 strike ''which''.

On page 24, line 8 strike all from ''except that'' through ''Board'' on line 11.

On page 24, line 18 strike all from '' *Provided further,*'' through ''modernization'' on line 20.

Mr. SHELBY. Mr. President, this amendment makes a number of corrections to further define the actions that the Internal Revenue Service is to take with regard to the information systems account we have been talking about.

It has been cleared on both sides of the aisle.

Mr. KERREY. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5215) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5216

(Purpose: To provide for assistance to Special Agents of the Department of State's Diplomatic Security Service)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5216.

Mr. SHELBY. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 128, line 9 before the semicolon insert the following: '', or under section 4823 of title 22, United States Code''.

Mr. SHELBY. Mr. President, this amendment amends section 636 of the bill which provides authority for agencies to provide assistance to agents who secure liability insurance. This amendment will provide this authority to the State Department if it chooses to provide the same assistance to special agents of the Department of State's Diplomatic Security Service.

It is my understanding that it has been cleared on both sides of aisle.

Mr. KERREY. It has been cleared. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5216) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5217

(Purpose: To provide Federal Executive Boards ability to expand funds)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5217.

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

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

The amendment is as follows:

On page 101, on line 3, insert after ''boards'' the following: ''(except Federal Executive Boards)''.

Mr. SHELBY. Mr. President, section 613 prohibits the executive department from pooling or passing the hat for funds. This amendment allows for agencies to contribute funds to Federal executive boards when they are created. It is very tightly written, and it is intended to meet specific problems faced by these boards.

It is my understanding it has been cleared on both sides.

Mr. KERREY. It has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5217) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5218

(Purpose: To expand flexibility to OPM in providing services to CSRS and FERS annuitants)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5218.

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

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

The amendment is as follows:

On page 69, after line 20, add the following new section:

SEC. 422. Subparagraph (B) of section 8348(a)(1) of title 5, United States Code, is amended by striking ''title;'' and inserting ''title and providing other post-adjudicative services to annuitants;''.

Mr. SHELBY. Mr. President, this amendment would expand the flexibility available to OPM in providing services to CSRS and FERS annuitants in such functions as processing health benefits enrollment changes, changes of address and responding to annuitant inquiries. All of these postadjudication matters would be funded in the same way, and therefore fully integrated with the postretirement COLA adjustments, Federal and State tax withholding and allotments from annuity payments.

It is my understanding it has been cleared on both sides of the aisle.

Mr. KERREY. It has been cleared.

The PRESIDING OFFICER. The question on agreeing to the amendment.

The amendment (No. 5218) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5219

(Purpose: To provide that the Administrator of General Service have funds available to make payments for the Federal Communications Commission)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5219.

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

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

The amendment is as follows:

On page 57, line 21 before the colon insert the following new provision: '': *Provided further,* That to the extent that the Federal Communications Commission does not receive sufficient appropriations for necessary expenses associated with its relocation to the Portals in Washington, DC, funds available to the Administrator of General Services shall hereafter be available for payments to the lessor of the amortized amount, to be financed at the lowest cost to the Government, of such expenses. Such payments shall be in addition to amounts authorized pursuant to section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606) and shall be made for a term not to exceed the useful life of the improvements, furniture, equipment, and services provided, up to a maximum of ten years.''

Mr. SHELBY. Mr. President, this amendment before the Senate provides authority to the General Services Administration to negotiate payment for housing the Federal Communications Commission in Washington, DC.

It is my understanding this amendment, too, has been cleared on both sides.

Mr. KERREY. It has been cleared. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5219) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5220

(Purpose: Technical amendment to H.R. 3756)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5220.

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

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

The amendment is as follows:

On page 51, line 10 strike all from ''*Provided further,*'' through ''House and Senate:'' on line 16.

Mr. SHELBY. Mr. President, this is a technical amendment that strikes a provision which is identical to a provision which appears at another place in the bill.

It has been cleared, I understand, on both sides of the aisle.

Mr. KERREY. It has been cleared. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5220) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5221

(Purpose: To strike provision requiring a study of courtroom utilization)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5221.

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

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

The amendment is as follows:

On page 61, line 5 strike all from '': *Provided*,'' through ''or expanded'' on line 8.

Mr. SHELBY. Mr. President, the committee included language in the bill when it was reported to require the Administrative Office of the Courts to do a space utilization study of courtroom space and utilization. Since the bill was reported from the committee, the AOC has been working with the appropriate authorizing committees to review courtroom space and utilization. These issues should appropriately be reviewed in this manner. It is for that reason I am moving to strike this provision.

It has been cleared on both sides.

Mr. KERREY. It has been cleared. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5221) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5222

(Purpose: To allow agencies to advance employee FEHB premiums for employees on leave without pay)

Mr. SHELBY. Mr. President, I have another amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5222.

Mr. SHELBY. 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:

On page 69, after line 20 add the following new section

SEC. . Paragraph (1) of section 8906(e) of title 5, United States Code, is amended—

(1) by striking the last sentence of that paragraph and redesignating the remainder of that paragraph as (1)(A);

(2) by adding at the end of paragraph (1)(A) (as so designated) the following:

''(B) During each pay period in which an enrollment continues under subparagraph (A)—

''(i) employee and Government contributions required by this section shall be paid on a current basis; and

''(ii) if necessary, the head of the employing Agency shall approve advance payment, recoverable in the same manner as under section 5524a(c), of a portion of basic pay sufficient to pay current employee contributions.

''(C) Each agency shall establish procedures for accepting direct payments of employee contributions for the purposes of this paragraph.''.

Mr. SHELBY. Mr. President, this amendment will solve problems that agencies, the Office of Personal Management, and the Federal employee health benefit carriers have experienced with regard to payment of health care premiums by allowing agencies to advance the employee premium for employees on leave without pay, rather than waiting for the employees to return to work.

I understand this has been cleared on both sides.

Mr. KERREY. It has been cleared. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment (No. 5222) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. SHELBY. 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. DORGAN. 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. DORGAN. What is the pending business, Mr. President?

The PRESIDING OFFICER. The amendment of the Senator from Oregon, the second-degree amendment.

Mr. DORGAN. I ask unanimous consent we set that aside. As I understand, the managers talked about setting aside the amendment by the Senator from Oregon.

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

AMENDMENT NO. 5223 TO EXCEPTED COMMITTEE AMENDMENT ON PAGE 16, LINE 16 THROUGH LINE 2 ON PAGE 17

(Purpose: To amend the Internal Revenue Code of 1986 to end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States)

Mr. DORGAN. Mr. President, I offer a second-degree amendment to the second committee amendment.

I believe the second committee amendment is now the pending business.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. On behalf of myself, Senator HOLLINGS, Senator BUMPERS, Senator KERRY of Massachusetts, Senator SIMON, Senator KOHL, and Senators REID, WELLSTONE, LEAHY, HARKIN, FEINGOLD, and KENNEDY, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. HOLLINGS, Mr. BUMPERS, Mr. KERRY, Mr. SIMON, Mr. KOHL, Mr. REID, Mr. WELLSTONE, Mr. LEAHY, Mr. HARKIN, Mr. FEINGOLD, and Mr. KENNEDY, proposes an amendment numbered 5223 to excepted committee amendment on page 16 line 16 through line 2 on page 17.

Mr. DORGAN. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. . TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 of the Internal Revenue Code of 1986 (defining foreign base company income) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5)).''

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 of such Code is amended by adding at the end the following new subsection:

''(h) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property,

''(B) the sale, exchange, or other disposition of imported property, or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States, or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

''(B) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) of such Code (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) of such Code is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h)).''

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) of such Code is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) of such Code (relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) (and by redesignating the following subclauses accordingly):

''(III) imported property income,''.

(2) Paragraph (5) of section 954(b) of such Code (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1996, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (C).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1996.

Mr. DORGAN. Mr. President, this amendment is not a germane amendment to this appropriations bill. I assume notice will be made of that, so I

immediately agree this is not germane to this legislation.

However, this is, perhaps, the only remaining opportunity to offer such an amendment. I offered it about a year ago, and the Senate had a vote on it. It was a 52 to 47 vote. It deals with a provision in our tax law which encourages and provides incentives to U.S. companies that move jobs overseas from this country to their foreign factories operating in tax havens.

I have believed for some long while that we have an obligation in Congress to decide that we will change our Tax Code sufficiently so we will not be providing incentives to ship U.S. manufacturing jobs overseas.

I offered this amendment last year, almost a year ago now, and, as I indicated, the vote on it was on a vote to table, and it was 52 to 47. I recognize this is controversial, but I also maintain it is critically important. I also do not prefer to offer a nongermane amendment to this particular appropriations bill. I have great respect for the Senator from Alabama and the Senator from Nebraska. They want to get this bill done, and I understand that. I don't intend to hold them up forever on this, but I would like to have a discussion about this and have a vote on it. I know there are a couple of others who want to speak about this amendment as well.

Let me try to briefly describe what this amendment would do. Before I do that, let me say again to those who will point out that this is nongermane, I admit that, and I assert that we have faced nongermane amendments from both sides of the aisle in the past year or two here in Congress. We have recently seen an amendment dealing with a gas tax repeal on a White House travel bill. So we have seen a whole range of nongermane amendments. While I agree with others that that is not the preferable way to do business, this is the last opportunity to offer such an amendment.

Let me talk for a moment about the specifics. On July 8, this year, the Boston Globe had an article that was entitled ''Tax Code Gives Companies a Lift,'' and I would like to read a few paragraphs of it because it was a fascinating, lengthy article written by Aaron Zitner of the Boston Globe. The first paragraph describes what has long concerned me and persuaded me previously, and now again, to offer an amendment of the type I am offering today. It reads in the Globe:

When Robert M. Silva's job moved to Singapore two years ago, his company flew him overseas so he could train his replacement. Then the company closed its North Reading factory [in Massachusetts], laid off Silva and 119 co-workers and began importing from its Asian plant the medical products once made in Massachusetts.

Moving jobs to Singapore had obvious advantages for Baxter International Inc. Taxes are low, and Silva's $26,000 salary was far higher than what the company pays his replacement.

But Baxter reaped another reward for moving overseas: a tax break, courtesy of the United States Government. In the name of boosting U.S. business, the Tax Code offers a special benefit to companies that move jobs offshore. . . .

It is one of many tax breaks that ripple perversely through the economy—favoring multinationals over small firms, favoring investors over average taxpayers and favoring foreign workers over those at home.

Those are the first paragraphs of a lengthy and very interesting article in the Boston Globe. This paragraph talks about a man named Robert Silva. I have never met him, and I don't ever expect to meet him. He is one of many Americans who discovered that his job no longer exists in this country; it exists in Singapore. He discovered he was sent to Singapore to train his replacement. He is a taxpayer, like others, who pays taxes to our Government for a lot of things that he no doubt supports. But I will bet you that Mr. Silva, like many others, does not support a provision in our Tax Code that actually rewards those who would move U.S. jobs overseas.

Now, what is this reward, and what is the amendment I am proposing? The amendment I am proposing is not to repeal all of something called deferral. That is not my proposal. The Senate actually voted once to repeal deferral many years ago. It just did not go beyond the Senate. But the Senate has already acted to repeal something called deferral. What is deferral? That means that if you are an American manufacturing company producing overseas, you make an income there, and you generally don't have to report it and pay taxes on it in this country. You may defer that tax obligation until and unless you repatriate the income to our country. That is a special tax break called deferral. You can defer any taxes you would have owed to this country on income you made in a plant outside of this country.

As I indicated, the Senate in 1975 voted to repeal all of the deferral tax break. Of course, it was a different day, a different debate. It was very controversial then. In 1987, the House of Representatives voted to repeal a small part of deferral. In fact, it is exactly the part that I am proposing that we now repeal. The House of Representatives passed this provision, which I now offer the Senate, in 1987. The provision says that those U.S. companies who establish a manufacturing plant overseas, move their U.S. jobs overseas to tax havens, and then ship their products back into this country will lose the deferral on their tax break—the tax break called deferral—that amount of income attributable to the goods they move back into our country. It is a very small slice of this issue called deferral, but it would close that, because that which now exists is to say to a U.S. company, close your manufacturing plant in Boston or Bismarck or Los Angeles and then move it overseas to a tax haven and the American taxpayer will make a deal with you. If you do that, we will give you a tax break. What is that tax break worth? It is worth $2.2 billion in 7 years. That is how much is paid to companies who locate their manufacturing jobs in other countries as opposed to this country.

Now, I don't know of anyone who really can stand up and say, boy, this makes a lot of sense. It is an affirmative policy on our part to reward the export of American jobs. I don't know of anyone who is proposing that. If there are people who propose that, I would very much like them to come to the floor of the Senate and see if we can begin debating it, because I hope we will have some discussion. A year ago, when I offered this amendment, we were told that some hearings might be held and that this is not the time, the place, nor the way, and I understood all that. I did not agree with it. But as is usually the case, a year passes and not much happens. I wanted to offer this a month or two ago and wasn't able to do that, given the parliamentary circumstances. So now I am required, if I am to offer it at all in this session of Congress, to offer it today on this piece of legislation.

I would like to go over a couple of charts. Lest anyone thinks this is something that is irrelevant and not important, I would like to go over a few charts to describe why I think this is important. First of all, I would like to talk about manufacturing jobs in this country. The trend line on manufacturing jobs is dismal. The trend line is that we are a country with fewer and fewer manufacturing jobs, and manufacturing jobs, traditionally, have been the good jobs that pay good income with good benefits. But you see what is happening.

Since 1979, we have lost about 3 million good-paying manufacturing jobs in this country. We continue to see manufacturing jobs move elsewhere, and I know people say, ''Well, yes, but we have more service jobs,'' and this and that and the other. The fact is that getting a job at minimum wage, working for some discount store on the edge of a city, is not a replacement for good manufacturing jobs that traditionally have paid good income in this country. This is what is happening to manufacturing jobs in our country. That is a ominous trend. Part of that is because those manufacturing jobs are being exported. Exported how? Well, for a lot of reasons, one of which is that we actually encourage it in our Tax Code.

Next is ''Employment by Foreign Manufacturing Affiliates of United States Companies''—U.S. firms and their employment. Here is what is happening to manufacturing employment in the United States. That is the red line. You see what is happening to that. That is going down.

U.S. companies manufacturing abroad, what is happening to their employment? That is going up. Those lines show clearly what is happening on manufacturing employment by U.S. corporations in Asia and Latin America, the location of most low wage and tax haven countries.

''Employment in Foreign Manufacturing Affiliates.'' You can see what is happening over the years. That employment continues to increase. Again, this is manufacturing and manufacturing jobs are traditionally the best source of jobs or the best income and the most secure.

''Employment by U.S. Firms in Foreign Tax Havens.'' You will see Ireland, the Netherlands, Hong Kong, Singapore. Singapore, 74,700 firms. I am not suggesting that a United States company should not be able to have a foreign affiliate and manufacture in Singapore. A United States company might well want to establish an affiliate in Singapore in order to manufacture there to compete in Korea. I am not suggesting that is inappropriate. I am not suggesting we change that. I am saying that if a United States company decides it wants to manufacture in Singapore for the purpose of serving the United States market, the company that manufactures in the United States to serve the United States market is put at a substantial disadvantage. Why? Because at least in part we have provided in our Tax Code a reward for those who left which translates into a penalty for those who stayed.

''Growth of Manufacturing Employment.'' You can see what is happening again, in the number of countries where manufacturing jobs have been moving with robust growth and what is happening in the United States. That is not, it seems to me, what we should aspire to have happen in our country.

''Growth of Imports of Manufactured Products.'' Once again, the line shows that we have a steady upward trend of growth of imports from manufactured products. The moment I say this some will say, ''Well, he wants to stop the imports.'' This is not the case. This is not, on the one hand, a debate between those who want free and open and unrestricted trade and those, on the other hand, who are protectionist, xenophobic stooges who do not understand what is happening in the world. That is the way it is characterized. That is a lot of baloney. What this is is a narrow question of whether or not we ought to have in our Tax Code that provision which provides a significant incentive to say to a U.S. manufacturer, ''We will make you a deal: Move your jobs overseas and we will give you tax relief. Compete after you move overseas against a domestic company that stayed in the United States and will be at a disadvantage because we gave you a tax advantage and did not give the company that stayed here a tax advantage.''

That, it seems to me, is exactly the wrong message we want to be sending to American manufacturers.

Well, I do not know that I need to provide more evidence that manufacturing jobs are leaving this country. It is, I suppose, difficult to discuss this with a great deal of success at a time when those who receive these benefits are the largest enterprises in our country, literally in many cases the largest enterprises in the world, spending an enormous amount of time lobbying to keep what they now have, preventing someone from taking away the benefits they now have. There are not people walking around the streets carrying placards telling us that we have to shut this tax loophole because almost no one knows it exists.

Mr. Silva, who has lost his job in Massachusetts, may not know it exists, but it contributed to his losing his job. A woman named Carolyn Richard probably does not know it exists. She is a woman married with one child, a 10th grade education, one of 500 people who worked in a Fruit of the Loom factory, 8-hour days, stitching shoulder joints and hemming T-shirts. She, with a lot of others, worked hard. They liked their jobs, did well. But they cannot compete against others who will work for a dollar a day, a dollar an hour, and so companies that would employ Carolyn Richard decide they will close their American plant because they can make that product elsewhere less expensively.

I admit there are several things that persuade companies to do this, one of which is a tax break. Several others include being able to pole vault over an entire range of knotty little problems in this country that we served 75 years debating—should there be child labor protection laws? Should there be safety in the workplace? If so, what should those standards be? Should we prevent the dumping of chemicals and effluents into the air and water by manufacturing plants? We spent 75 years debating that and came to some conclusions about it, and we have child labor laws; we have worker safety protection issues; we have minimum wages; we have provisions that you cannot dump chemicals into our water; you cannot dump effluents into the airshed that pollute this country.

So that is what costs money, and some are able to pole vault over all of those issues by saying: I do not have to pay the minimum wage; I can hire a 14-year old and pay them 14 cents an hour and work them 14 hours a day; I can dump chemicals into the stream; I can dump pollution into the airshed; I do not have to care about OSHA inspectors, safe work place; I do not have to care about any of those things and save money because I can move this plant overseas. Besides, when I am done doing that, I can claim a tax break because the American taxpayers will pay me and others who do it $2.2 billion in 7 years if I will just consider moving my American jobs elsewhere.

There is at the moment a wonderful series that I would commend to my colleagues being done in the Philadelphia Inquirer by fellows named Donald Barlett and James Steele. They have done a substantial amount of economic work. They have won the Pulitzer Prize, a couple Pulitzer Prizes for their reporting, and they have now published 3 of an expected 10 pieces dealing with these issues—trade, tax preferences. What is happening to an endangered label, they say. ''Made in the U.S.A.'' ''An Endangered Label: 'Made in the U.S.A.'''

Product after product once made or grown in the United States now comes from abroad and one of the biggest losers in this influx is small business.

From one of their articles I wanted to read a couple of paragraphs that I think summarize part of this issue for me.

> Unlike multinational corporations that have closed factories in the United States and shifted the production abroad to take advantage of cheap labor, small companies seldom have that option. It is these businesses, employing a few to a dozen workers, that are being squeezed out. Individually, they barely register a blip on the economic indicators. Taken together, they provide a livelihood for millions.
>
> Small businesses have scant access to people in Congress who write the laws and little influence in the White House. They rarely receive favorable hearings from regulatory authorities. With few exceptions, their appeals for help go unheard when imports of competing products from low wage countries begin flooding in.

Mr. President, Mr. Glover, chief counsel from the Small Business Administration's Office of Advocacy, said it pretty well. He was speaking of part of this amendment. He talked about the legislative offering that I have proposed, ''encouraging small and mid-sized domestic businesses by reducing the competitive advantage a business might receive by moving its operations overseas.''

''We recognize,'' he said, ''the fact of life that some businesses may move their production operations to a foreign nation for reasons of market access, materials availability or a variety of other concerns.''

And I recognize that as well.

He also said, ''We also know that domestic small businesses, having neither the resources nor the expertise for such a move, should be assured that their globe-trotting, multinational competitors will not be provided tax advantages as well. Eliminating the deferrals for a U.S. business which has closed its domestic production and moved abroad and which now seeks to sell those same products domestically will help small businesses to be competitive and at least give them a sense of fair treatment.''

Mr. President, I could go on at some length because this is a very controversial issue. Not long ago, a couple of people who worked for an organization that has been put together and funded by the largest companies in this country, which benefit from this tax break, put together a piece in one of the tax publications here in town. It was just a scathing attack of this proposal of mine. It described all that is wrong with it and why the current system is wonderful and why what I am proposing is so awful.

A response to that was recently done by the Congressional Research Service, prepared by its senior specialist in economic policy, Jane Gravelle. It was

published recently, and it debunks all of the hollow issues that were raised about this legislation.

This is not rocket science, no matter what those who come to the floor may say. This is not complicated. It is not even highly technical in its application. The question that we ought to address as Members of the Senate, at the time when this country is losing more and more manufacturing jobs, is this: Do we want to continue in our Tax Code to subsidize the exodus of American jobs overseas, by saying to U.S. companies, ''If you put U.S. jobs overseas rather than here at home we will give you a tax break''? ''If you have a plant here at home, shut the door, get rid of the workers, move it overseas, and the American taxpayer will say thank you by giving you a check.''

If you believe that makes sense and if you believe there is any room in this country where you can stand up and describe that as a sensible public policy, then you ought to vote against what I am proposing. But if you, like most people, think that our Tax Code at least ought to be neutral on the question of where you locate jobs—and it probably ought to be more than neutral—we ought to tip it on the side of saying, if you create jobs here, we will provide incentives for you. We ought to turn it around. Instead of providing incentives for those who ship jobs out of our country, we ought to create incentives for those who create jobs in this country.

We are told this is a global economy and some Members of the Senate and the House simply lack the capability of understanding the new realities of the global economy. I do not know whether they refer to me when they say that, or the Senator from South Carolina. I do not know who it is who does not understand all this global economy. I confess to growing up in a town of 300 people, attending a high school with a class of 9. I graduated in a senior class of 9. They did not teach us, necessarily, higher math in our high school, but we got reasonably good training. They taught us to think a little bit, use a little judgment, have a little common sense.

I could go back to Regent, ND, tonight, perhaps hold a meeting in the Regent town hall, and most of the folks in Regent would come, because it is a small town. There is probably not a lot going on there this evening. Regent was a town where there probably was not much going on when I was a student there. It is a wonderful community, small but wonderful. If we could get all the folks there in the Regent Center tonight, we could talk to them about what do they think we ought to do on tax policy. Do you think we ought to encourage some jobs that exist in North Dakota or in Colorado, New Hampshire, Rhode Island—do you think we ought to encourage those jobs to move elsewhere, just leave our country? Take a manufacturing job and send it elsewhere? Make shoes, shirts, belts and television sets and cars elsewhere? Or would it be better if you could find a way to try to keep most of those jobs here?

If we could get all the folks there in Regent and talk to them, they might raise the question of the global economy. They might say, ''Isn't the global economy kind of an inevitable circumstance nowadays, where we are competing against those workers who live in Sri Lanka, in Bangladesh, in Malaysia, in Singapore?'' Yes, it is, absolutely. That is the reality. We are competing against those people and that is precisely why we are losing manufacturing jobs. We should have to compete with virtually everyone in the world, providing the competition is fair.

I would ask this. Is it fair to ask a worker in Alabama, Colorado, South Carolina, or North Dakota to compete against someone who makes 14 cents an hour? Can we compete against someone who makes 14 cents an hour? Should we compete? Is it necessary to be required to compete against someone who makes 14 cents an hour? I can tell you about some people who do make 14 cents an hour working 11 hours a day, 6 days a week. I can tell you about them. How about making 14 cents an hour at age 14? Working 14 hours a day? I can tell you about some of them.

So, if the answer to the question is no, we should not have to compete against that, then the question is, what do we do? We not only create a circumstance in our country where we say you are going to compete against it, but we say if you will simply take the opportunity to access low wages elsewhere, we will give you a tax break.

Folks in my hometown would, I think, find that fairly dumb. I do not know how else you describe that. I think they would say that is a pretty dumb policy. What kind of minds conspired together to figure out that we ought to have a tax break if we boot jobs out of our country? What kind of high-minded people? Tell me where they got their education. What kind of high-minded people is it who believe it makes sense for us to create tax policy that has the consequence of weakening our country and weakening the job base that has been the very foundation for economic growth in America?

Economic growth in this country is not economic growth based on target discount stores on the edge of our cities, paying minimum wage. In fact, I went through one recently with my little daughter, trying to find a bathing suit. Do you know, I could not find an employee. I walked around forever trying to find somebody who worked there. They have a store and, at least to my knowledge, no discernible employees.

I finally found somebody to take my money. But is that a substitute? Are those jobs the substitute for good manufacturing jobs? Of course not. So the question is, should we decide to focus a bit on this question? We will have people come and say, ''No, no, you should not focus on it. This is irrelevant, it is extraneous, and besides you have it all wrong. This tax break is not really a tax break; those who you say get it do not get it, and if they do get it, it really doesn't matter.'' There are always three or four stages of denial here in this Chamber.

But some of us think this is important. The global economy is a reality. I am not suggesting we put up walls and keep products out. I am not suggesting that we tie the hands of American corporations. I am suggesting that we decide, on behalf of our country, that rather than provide incentives to those who would move jobs outside of our country, we consider providing incentives to those who would create jobs inside of our country, and that is the central question before us.

So, I have a couple of other things I want to say, but I know the Senator from South Carolina wishes to speak on this. I, at this point, yield the floor.

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

Mr. HOLLINGS. Mr. President, I will be as brief as I possibly can. I will not take long. This is a subject that really deserves several days of debate.

But, in a capsule, we are going to bring it right to a head, I think, in the next couple of hours, in that Pat Choate, the author of ''Agents Of Influence,'' has been selected as the Vice Presidential candidate by Ross Perot, in this so-called Reform Party.

Mr. Choate was the vice president in charge of policy at TRW. When he published this book, which factually has never been challenged, he, of course, was relieved of his post as vice president of TRW and has been out as a consultant to industry.

There is no question that finally, finally, in this election, trade and jobs will really come into focus, as the distinguished Senator from North Dakota is bringing right here.

Let me hasten to add, I support, of course, our Democratic ticket of Clinton-Gore and will continue to support them. I have tried to work—with respect, unsuccessfully, of course—on NAFTA and GATT to change our trade policy and save us from these two flawed agreements. But we are going to have to try to do our dead level best to bring them into the real world of trade and jobs, and I am confident that the selection of Mr. Choate will really bring it front and center.

There is no question, don't put this gentleman in a debate with any of the persons mentioned here, and he is far, far more informed. They do not have to bring up the case of Smoot-Hawley and think you are going to show a picture and rattle this gentleman.

Let me first commend my distinguished colleague from North Dakota. He has been very erudite in this particular matter, because he feels keenly about the two really great issues facing our Nation.

One, of course, is trying to get this Congress to pay the bills. And you heard earlier today the distinguished Senator from North Carolina holler, ''Up, up and away, the debt.'' The national debt has gone to some $5.2 trillion. I remember well when President Reagan came to office, it wasn't even $1 trillion.

We had 38 Presidents of the United States, Republican and Democrat, 200 years of history, and never a trillion-dollar debt, with the cost of all the wars—Revolutionary, 1812—right on up—Civil War, Spanish American, World War I, II, Korea, Vietnam, with the cost of all the wars, we had not gotten to a trillion-dollar debt.

Now, without the cost of a war, in 15 years we have gone to $5.2 trillion. And, as a result, we are raising taxes a billion dollars a day. I use that expression, ''raising taxes a billion dollars a day,'' advisedly for the simple reason is, Mr. President, you have to pay the interest costs. They say there are two things in life unavoidable: death and taxes. Make it a third: interest costs on the national debt. We have to pay that. Republicans and Democrats vote every time to pay the interest costs on the national debt.

So that is a billion a day for nothing. That is not for schools. That is not for defense. That is not for education or housing or the environment. You don't get anything for that. You are just paying for the past profligacies of these Congresses. That is problem No. 1.

Problem No. 2 is barely mentioned, and I speak advisedly about jobs, because I have been in the game. I didn't come here as a neophyte. We can start off 37 years ago. When I took office, we had an agriculture State. When I left, we had an industrial State.

Anybody connected with the history of our great State of South Carolina will tell you the technical training program that we instituted is a big attraction for industrial investment and expansion, period, for South Carolina, New Hampshire, or anywhere else. I offered Governor Sununu in the Presidential race in the early eighties to come up there and institute my technical training, but New Hampshire wanted to leave it to the industries.

I talked to my friends at Wang, in, Nashua. I said, I don't see how you expect any expansion except to run away from the taxes in Boston, coming up Highway 128, or whatever it is, to get out of the taxes in that beautiful State of New Hampshire, which everyone will agree is one of the most beautiful in the entire Nation.

But be that as it may, we are not just talking philosophically as an economist or anything else, we are talking business sense. I have worked firsthand with the chairmen of the boards, the vice chairmen, come on down to No. 6 man who really has to get the operation in the black. That is the gentleman or lady that counts. And when you give them a spread sheet and you tell them the hourly wages and how it is going to come out, when they break ground, when the plant will be complete, you can get in operation in 7 months or a year or less, whatever it is, you are beginning to talk sense, and that is the way we work at it.

Right to the point, our poor friends in Alabama went totally overboard. In Alabama, they paid over $300 million to get Mercedes Benz. I was in that competition. I will never forget meeting with the Mercedes executives. I carried them down to South Carolina to Bosch, and at Bosch, I showed them where they not only were making the fuel injectors, but they were making the antilock brakes for the Mercedes Benz. They were making the antilock brakes for the Toyota, for all Ford cars and all General Motors cars.

I showed them a good little country boy from Dorchester County who had been trained in our technical training system, sent to Stuttgart and learned the German apprenticeship system and was instructing in Charleston, SC, the German apprentice system.

The man from Mercedes said, ''This is what we want. We are looking for a port. We are looking for the skills.'' But the great executives back in Germany were looking for money, so we lost out on that one.

I only introduce that because these rat-a-tat talks about ''I'm for jobs, I'm for jobs,'' they don't know anything about the retaining, anything about the work in trying to get the job there, keep the job there and get the expansion, which we are doing in South Carolina.

Having said that, Mr. President, I notice my distinguished friend had to talk almost defensively. He said, ''Wait a minute, I'm not trying to put up a wall or anything else.'' It is very unfortunate I have to do the same thing. I am speaking defensively trying to qualify as you might a witness in a case, because this is the real case of the United States of America and nobody wants to try it, Republican or Democrat. Oh, no, they want to ignore it.

Let me go right to the heart of the matter. Yes, in the cold war, we had to sacrifice our industrial backbone in order to spread capitalism and bring about freedom in the Pacific rim and we used the Marshall plan to rebuild Europe, and it worked. Nobody is complaining about that sacrifice.

I used to testify back in the fifties before the old International Trade Commission—International Tariff it was called at that particular time. They said, ''Governor, what do you expect these emerging countries to make, the airplanes and the computers?'' Let them make the clothing and the shoes. That is why 86 percent of the shoes on this floor are imported; 66 percent, two-thirds of the clothing you are looking at is imported.

So I said, ''Yes, you have to give the lesser skilled jobs to the emerging countries,'' but we have done that. As my friend, Senator Dole, says, ''Been there, done that.'' So all right, it worked.

Now we are into a global competition, and who is making the computers and who is making the airplanes? Our competitors. So don't come now with this argument about we are rebuilding the world. We have to rebuild the United States. Our standard of living has gone out of the window.

You cannot be a world power—let's talk security and national defense—you cannot be a world power unless you are a manufacturing power. Ten years ago, we had 26 percent of our work force in manufacturing. We almost had half at the end of the war. That is what won the war.

I spent 3 years overseas in World War II. Yes, we had brave soldiers. These people are talking about the veterans' record. But Rosie the Riveter won World War II. We inundated them. I can see me now saying, ''Send those planes. Keep sending them.'' They kept shooting them down, but we had more. Building No. 1 down in Marietta, GA, was spitting out five B–29's a day.

Rosie the Riveter, our industrial backbone, won World War II, and we are losing world war III, the economic war, because instead of now going from half to 26 percent 10 years ago, today we are down to 13 percent.

That up east Harvard group would give that lecture, ''small is beautiful, service economy,'' all these here nonsensical arguments. And we are going to the poorhouse. That is why real wages have dropped 20 percent in the last 20 years, for the simple reason that the big multinationals have increased their profits by moving offshore.

Mr. President, we are competing with ourselves. Mark it down. I am not worried about Japan. I am not here to bash Japan. I am here to bash me, us, you, the Congress, the silly policy. What we have in manufacturing is the cost of labor is 30 percent of volume. And we know it is a given. We had many witnesses testify to that in our particular hearings, that you can save as much as 20 percent of volume of sales by moving offshore to a low-wage country.

Take a company, a manufacturer with $500 million in sales, they can keep the head office, the sales force here in America; but they can move their manufacturing offshore and make $100 million at 20 percent or they can continue to work their own people and go bankrupt, because that is the competition. Do not talk about the global competition. I am talking about the fellow next door that has already moved.

When you come up here, they dance around hollering, ''retrain, retrain, retrain.'' I want to say a word about that to get it on the record, because we know about training. We do not have to wait on Washington to get us industrial expansion in South Carolina.

But Oneita Mills closed recently in South Carolina. We had 487 jobs making these T-shirts. We got that 35 years ago, a beautiful little plant, wonderful

workers. The average age there was 47 years of age, Mr. President. Retrain them. Do it Secretary Reich's way, the Secretary of Labor. Go ahead and retrain them; and tomorrow morning give me 487 expert computer operators. Are you going to hire the 47-year-old computer operator or the 20- or 21-year-old computer operator? To ask the question is to answer it. You are not going to take on the health costs, the retirement costs of the 47-year-old.

You can keep on retraining them. They are out in this little rural town, scavenging, trying to make enough money, where their husbands probably were in the tobacco allotment. They want to cut that out. Together they work and save enough money to send the boy to Clemson. I am seeing it happening, and I am coming around here hearing ''skills, skills.'' We have skills. Do not give me that. I have skills coming out of my ear.

And do not give me any of these other arguments they are talking about, product liability, and all of these other silly—why do you think we have Hoffmann La Roche and BMW. And go right on down. And we have now 50 Japanese plants. I have almost 100 German plants, a bunch of British plants. Michelin—the French—they just announced another expansion. I remember calling on them in Paris in 1961. Now they are going up to 11,600 employees, Senator, with their North American headquarters in Greenville, SC. I got Bowater; I have got their North American plant in Greenville, S.C. So let us get on with what the Senator from North Dakota wants to talk about, and that is, these freebies that are being given out to continue a policy that was well-conceived in order to spread capitalism and defeat communism in the cold war. We have won that war.

Now we look around, and we have sacrificed the working people of America, and our standard of living. And the job is for you and I to be realistic and start building it back up. And do not come—I can hear it now, because I can tell you, Senator, once they chose Pat Choate, you are going to find the multinationals, they are going to come down here on your necks and heads around here, ''free trade, free trade, protectionism, protectionism, protectionism.''

Let me plead guilty. I am a protectionist. We have the Army to protect us against the enemies from without. We have the FBI to protect us from the enemies within. We have Social Security to protect us from the ravages of old age, Medicare to protect us in ill health. The fundamentals of government, that is what we are up here for.

I remember when Ronald Reagan was sworn in in the rotunda. He raised his hand to preserve, protect, and defend. And when we came back down here on the Senate floor and started talking about it, he said, ''Oh, no, we don't want to be protectionist.'' You darn right I want to protect our industrial backbone, our standard of living, and the jobs of America. And I want a competitive trade policy. We are not competing. We have been taken over by a fifth column within the ranks in this land of ours.

Remember, we heard this same argument about comparative advantage and free trade from David Ricardo in the earliest, earliest of days. Or the Brits, once we got our freedom, they said, ''Now, just you little fledgling nation, the United States of America, you trade back with the mother country with what you produce best, and we will trade back with what we produce best,'' the doctrine of comparative advantage, free trade, free trade, free trade. And you know what Alexander Hamilton said? He wrote it in a little booklet, ''Reports on Manufacturers.'' Get a copy of it. There is one left. It is on guard over there at the Library of Congress where I hope to be tonight because they have a wonderful reading going on over there. But this is even again more important.

And in the ''Reports on Manufacturers,'' Alexander Hamilton told the Brits in one line, ''Bug off. We are not going to remain your colony. We are not going to continue to ship our agricultural products, our timber, our iron, our coal, and bring in your manufactured products. You have to be a nation State. You have to have a preeminence in manufacturing.''

The second bill, Mr. President, on July 4, 1789, that actually passed this Congress was a protectionist bill, setting a 50-percent tariff on 60 some articles going on down the list. And we built this United States of America, this economic giant with protectionism.

Abraham Lincoln, when he was going to get the transcontinental railroad—that same type of crowd is buzzing around us here tonight; and they will be around tomorrow; and they will say, go ahead and let us have free trade, free trade—they told President Lincoln that we should get the steel from England. He said no. He would build our own steel mills. When they got through, they had not only the transcontinental railroad, but they had their own steal capacity.

And so it was in the Depression, in the darkest days. Franklin Roosevelt came in with his competitive free trade under Cordell Hull. And Dwight David Eisenhower, in 1955, put quotas on imported oil because we had to sort of build up our capacity. And we have done that from time to time. And now is a time again when we survey the horizon, and start talking as realists. And quit giving us these symbolic baloneys, malarkeys such as Smoot-Hawley.

Mr. President, right to the point, I ask unanimous consent—I am trying to save time here—I ask unanimous consent to have printed in the RECORD the record made by our distinguished former colleague, Senator John Heinz of Pennsylvania entitled ''The Myth of Smoot-Hawley'' back in 1983.

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

THE MYTH OF SMOOT-HAWLEY

Mr. HEINZ. Mr. President, every time someone in the administration or the Congress gives a speech about a more aggressive trade policy or the need to confront our trading partners with their subsidies, barriers to import and other unfair practices, others, often in the academic community or in the Congress immediately react with speeches on the return of Smoot-Hawley and the dark days of blatant protectionism. ''Smoot-Hawley,'' for those uninitiated in this arcane field, is the Tariff Act of 1930 (Public Law 71–361) which among other things imposed significant increases on a large number of items in the Tariff Schedules. The act has also been, for a number of years, the basis of our countervailling duty law and a number of other provisions relating to unfair trade practices, a fact that tends to be ignored when people talk about the evils of Smoot-Hawley.

A return to Smoot-Hawley, of course, is intended to mean a return to depression, unemployment, poverty, misery, and even war, all of which apparently were directly caused by this awful piece of legislation. Smoot-Hawley has thus become a code word for protectionism, and in turn a code word for depression and major economic disaster. Those who sometimes wonder at the ability of Congress to change the country's direction through legislation must marvel at the sea change in our economy apparently wrought by this single bill in 1930.

Historians and economists, who usually view these things objectively, realize that the truth is a good deal more complicated, that the causes of the Depression were far deeper, and that the link between high tariffs and economic disaster is much more tenuous than is implied by this simplistic linkage. Now, however, someone has dared to explode this myth publicly through an economic analysis of the actual tariff increases in the act and their effects in the early years of the Depression. The study points out that the increases in question affected only 231 million dollars' worth of products in the second half of 1930, significantly less than 1 percent of world trade; that in 1930–32 duty-free imports into the United States dropped at virtually the same percentage rate as dutiable imports; and that a 13.5 percent drop in GNP in 1930 can hardly be blamed on a single piece of legislation that was not even enacted until midyear.

This, of course, in not to suggest that high tariffs are good or that Smoot-Hawley was a wise piece of legislation. It was not. But it was also clearly not responsible for all the ills of the 1930's that are habitually blamed on it by those who fancy themselves defenders of free trade. While I believe this study does have some policy implications, which I may want to discuss at some future time, one of the most useful things it may do is help us all clean up our rhetoric and reflect a more sophisticated—and accurate—view of economic history.

Mr. President, I ask that the study, by Don Bedell of Bedell Associates, be printed in the RECORD.

The study follows:

BEDELL ASSOCIATES,
Palm Desert, Calif., April 1983

TARIFFS MISCAST AS VILLAIN IN BEARING BLAME FOR GREAT DEPRESSION—SMOOT/HAWLEY EXONERATED

(By Donald W. Bedell)

SMOOT/HAWLEY, DEPRESSION AND WORLD REVOLUTION

It has recently become fashionable for media reporters, editorial writers here and

abroad, economists, Members of Congress, members of foreign governments, UN organizations and a wide variety of scholars to express the conviction that the United States, by the single act of causing the Tariff Act of 1930 to become law (Public Law 361 of the 71st Congress) plunged the world into an economic depression, may well have prolonged it, led to Hitler and World War II.

Smoot/Hawley lifted import tariffs into the U.S. for a cross section of products beginning mid-year 1930, or *more than 8 months following the 1929 financial collapse.* Many observers are tempted simply repeat ''free trade'' economic doctrine by claiming that this relatively insignificant statute contained an inherent trigger mechanism which upset a neatly functioning world trading system based squarely on the theory of comparative economics, and which propelled the world into a cataclysm of unmeasurable proportions.

We believe that sound policy development in international trade must be based solidly on facts as opposed to suspicious, political or national bias, or ''off-the-cuff'' impressions 50 to 60 years later of how certain events may have occurred.

When pertinent economic, statistical and trade data are carefully examined will they show, on the basis of preponderance of fact, that passage of the Act did in fact trigger or prolong the Great Depression of the Thirties, that it had nothing to do with the Great Depression, or that it represented a minor response of a desperate nation to a giant world-wide economic collapse already underway?

It should be recalled that by the time Smoot/Hawley was passed 6 months had elapsed of 1930 and 8 months had gone by since the economic collapse in October, 1929. Manufacturing plants were already absorbing losses, agriculture surpluses began to accumulate, the spectre of homes being foreclosed appeared, and unemployment showed ominous signs of a precipitous rise.

The country was stunned, as was the rest of the world. All nations sought very elusive solutions. Even by 1932, and the Roosevelt election, improvisation and experiment described government response and the technique of the New Deal, in the words of Arthur Schlesinger, Jr. in a New York Times article on April 10, 1983. President Roosevelt himself is quoted in the article as saying in the 1932 campaign, ''It is common sense to take a method and try it. If it fails, admit it frankly and try another. But above all, try something.''

The facts are that, rightly or wrongly, there were no major Roosevelt Administration initiatives regarding foreign trade until well into his Administration; thus clearly suggesting that initiatives in that sector were not thought to be any more important than the Hoover Administration thought them. However, when all the numbers are examined we believe neither. President Hoover nor President Roosevelt can be faulted for placing international trade's role in world economy near the end of a long list of sectors of the economy that had caused chaos and suffering and therefore needed major corrective legislation.

How important was international trade to the U.S.? How important was U.S. trade to its partners in the Twenties and Thirties?

In 1919, 66% of U.S. imports were duty free, or $2.9 Billion of a total of $4.3 Billion. Exports amounted to $5.2 Billion in that year making a total trade number of $9.6 Billion or about 14% of the world's total. See Chart I below.

CHART I.—U.S. GROSS NATIONAL PRODUCT, 1929–33

[Dollar amounts in billions]

	1929	1930	1931	1932	1933
GNP	$103.4	$89.5	$76.3	$56.8	$55.4
U.S. international trade	$9.6	$6.8	$4.5	$2.9	$3.2
U.S. international trade percent of GNP	$.3	7.6	5.9	5.1	$5.6[1]

[1] Series U, Department of Commerce of the United States, Bureau of Economic Analysis.

Using the numbers in that same Chart I it can be seen that U.S. imports amounted to $4.3 Billion or just slightly above 12% of total world trade. When account is taken of the fact that only 33%, or $1.5 Billion, of U.S. imports was in the Dutiable category, the entire impact of Smoot/Hawley has to be focused on the $1.5 Billion number which is barely 1.5% of U.S. GNP and 4% of world imports.

What was the impact? In dollars Dutiable imports fell by $462 Million, or from $1.5 Billion to $1.0 Billion, during 1930. It's difficult to determine how much of that small number occurred in the second half of 1930 but the probability is that it was less than 50%. In any case, the total impact of Smoot/Hawley in 1930 was limited to a ''damage'' number of $231 Million; spread over several hundred products and several hundred countries.

A further analysis of imports into the U.S. discloses that all European countries accounted for 30% or $1.3 Billion in 1929 divided as follows: U.K. at $330 Million or 7½%, France at $171 Million or 3.9%, Germany at $255 Million or 5.9%, and some 15 other nations accounting for $578 Million or 13.1% for an average of 1%.

These numbers suggest that U.S. imports were spread broadly over a great array of products and countries, so that any tariff action would by definition have only a quite modest impact in any given year or could be projected to have any important cumulative effect.

This same phenomenon is apparent for Asian countries which accounted for 29% of U.S. imports divided as follows: China at 3.8%, Japan at $432 Million and 9.8% and with some 20 other countries sharing in 15% or less than 1% on average.

Australia's share was 1.3% and all African countries sold 2.5% of U.S. imports.

Western Hemisphere countries provided some 37% of U.S. imports with Canada at 11.4%, Cuba at 4.7%, Mexico at 2.7%, Brazil at 4.7% and all others accounting for 13.3% or about 1% each.

The conclusion appears inescapable on the basis of these numbers; a potential adverse impact of $231 Million spread over the great array of imported products which were available in 1929 could not realistically have had any measurable impact on America's trading partners.

Meanwhile, the Gross National Product (GNP) in the United States had dropped an unprecedented 13.5% in 1930 alone, from $103.4 Billion in 1929 to $89 Billion by the end of 1930. It is unrealistic to expect that a shift in U.S. international imports of just 1.6% of U.S. GNP in 1930, for example ($231 Million or $14.4 Billion) could be viewed as establishing a ''precedent'' for America's trading partners to follow, or represented a ''model'' to follow.

Even more to the point an impact of just 1.6% could not reasonably be expected to have any measurable effect on the economic health of America's trading partners.

Note should be taken of the claim by those who repeat the Smoot/Hawley ''villain'' theory that it set off a ''chain'' reaction around the world. While there is some evidence that certain of America's trading partners retaliated against the U.S. there can be no reliance placed on the assertion that those same trading partners retaliated against each other by way of showing anger and frustration with the U.S. Self-interest alone would dictate otherwise, common sense would intercede on the side of avoidance of ''shooting oneself in the foot,'' and the facts disclose that world trade declined by 18% by the end of 1930 while U.S. trade declined by some 10% more or 28%. U.S. foreign trade continued to decline by 10% more through 1931, or 53% versus 43% for worldwide trade, but U.S. share of world trade declined by only 18% from 14% to 11.3% by the end of 1931.

Reference was made earlier to the Duty Free category of U.S. imports. What is especially significant about those import numbers is the fact that they dropped in dollars by an almost identical percentage as did Dutiable goods through 1931 and beyond: Duty Free imports declined by 29% in 1930 versus 27% for Dutiable goods, and by the end of 1931 the numbers were 52% versus 51% respectively.

The only rational explanation for this phenomenon is that Americans were buying less and prices were falling. No basis exists for any claim that Smoot/Hawley had a distinctively devastating effect on imports beyond and separate from the economic impact of the economic collapse in 1929.

Based on the numbers examined so far, Smoot/Hawley is clearly a mis-cast villain. Further, the numbers suggest the clear possibility that when compared to the enormity of the developing international economic crisis Smoot/Hawley had only a minimal impact and international trade was a victim of the Great Depression.

This possibility will become clear when the course of the Gross National Product (GNP) during 1929–1933 is examined and when price behaviour world-wide is reviewed, and when particular Tariff Schedules of Manufacturers outlined in the legislation are analyzed.

Before getting to that point another curious aspect of the ''villain'' theory is worthy of note. Without careful recollection it is tempting to view a period of our history some 50–60 years ago in terms of our present world. Such a superficial view not only makes no contribution to constructive policy-making. It overlooks several vital considerations which characterized the Twenties and Thirties:

1. The international trading system of the Twenties bears no relation to the interdependent world of the Eighties commercially, industrially and financially in size or complexity.

2. No effective international organization existed, similar to the General Agreement for Tariffs and Trade (GATT) for example for resolution of disputes. There were no trade ''leaders'' among the world's nations in part because most mercantile nations felt more comfortable without dispute settlement bodies.

3. Except for a few critical products foreign trade was not generally viewed in the ''economy-critical'' context as currently in the U.S. As indicated earlier neither President Hoover nor President Roosevelt viewed foreign trade as crucial to the economy in general or recovery in particular.

4. U.S. foreign trade was relatively an amorphous phenomenon quite unlike the highly structured system of the Eighties; characterized largely then by ''caveat emptor'' and a broadly laissez-faire philosophy generally unacceptable presently.

These characteristics, together with the fact that 66 percent of U.S. imports were Duty Free in 1929 and beyond, placed overall international trade for Americans in the Twenties and Thirties on a very low level of priority especially against the backdrop of world-wide depression. Americans in the

Twenties and Thirties could no more visualize the world of the Eighties than we in the Eighties can legitimately hold them responsible for failure by viewing their world in other than the most pragmatic and realistic way given those circumstances.

For those Americans then, and for us now, the numbers remain the same. On the basis of sheer order of magnitude of the numbers illustrated so far, the ''villain'' theory often attributed to Smoot/Hawley is an incorrect reading of history and a misunderstanding of the basic and incontrovertible law of cause and effect.

It should also now be recalled that, despite heroic efforts by U.S. policy-makers its GNP continued to slump year-by-year and reached a total of just $55.4 billion in 1933 for a total decline from 1929 levels of 46 percent. The financial collapse of October, 1920 had indeed left its mark.

By 1933 the 1929 collapse had prompted formation in the U.S. of the Reconstruction Finance Corporation, Federal Home Loan Bank Board, brought in a Democrat President with a program to take control of banking, provide credit to property owners and corporations in financial difficulties, relief to farmers, regulation and stimulation of business, new labor laws and social security legislation.[1]

So concerned were American citizens about domestic economic affairs, including the Roosevelt Administration and the Congress, that scant attention was paid to the solitary figure of Secretary of State Cordell Hull. He, alone among the Cabinet, was convinced that international trade had material relevance to lifting the country back from depression. His efforts to liberalize trade in general and to find markets abroad for U.S. products in particular from among representatives of economically stricken Europe, Asia and Latin America were abruptly ended by the President and the 1933 London Economic Conference collapsed without result.

The Secretary did manage to make modest contributions to eventual trade recovery through the Most Favored Nation (MFN) concept. But it would be left for the United States at the end of World War II to undertake an economic and political role of leadership in the world; a role which in the Twenties and Thirties Americans in and out of government felt no need to assume, and did not assume. Evidence that conditions in the trade world would have been better, or even different, had the U.S. attempted some leadership role cannot responsibly be assembled. Changing the course of past history has always been less fruitful than applying perceptively history's lessons.

The most frequently used members thrown out about Smoot/Hawley's impact by those who believe in the ''villain'' theory are those which clearly establish that U.S. dollar decline in foreign trade plummeted by 66 percent by the end of 1933 from 1929 levels, $9.6 billion to $3.2 billion annually.

Much is made of the co-incidence that world-wide trade also sank about 66 percent for the period. Chart II summarizes the numbers.

CHART II.—UNITED STATES AND WORLD TRADE, 1929–33

[In billions of U.S. dollars]

	1929	1930	1931	1932	1933
United States:					
Exports	5.2	3.8	2.4	1.6	1.7
Imports	4.4	3.0	2.1	1.3	1.5
Worldwide:					
Exports	33.0	26.5	18.9	12.9	11.7
Imports	35.6	29.1	20.8	14.0	[a]12.5

[a] Series U Department of Commerce of the United States, League of Nations, and International Monetary Fund.

[1] Beard, Charles and Mary, New Basic History of the United States.

The inference is that since Smoot/Hawley was the first ''protectionist'' legislation of the Twenties, and the end of 1933 saw an equal drop in trade that Smoot/Hawley must have caused it. Even the data already presented suggest the relative irrelevance of the tariff-raising Act on a strictly trade numbers basis. When we examine the role of a world-wide price decline in the trade figures for almost every product made or commodity grown the ''villain'' Smoot/Hawley's impact will not be measurable.

It may be relevant to note here that the world's trading ''system'' paid as little attention to America's revival of foreign trade beginning in 1934 as it did to American trade policy in the early Thirties. From 1934 through 1939 U.S. foreign trade rose in dollars by 80% compared to world-wide growth of 15%. Imports grew by 68% and exports climbed by a stunning 93%. U.S. GNP by 1939 had developed to $91 billion, to within 88% of its 1929 level.

Perhaps this suggests that America's trading partners were more vulnerable to an economic collapse and thus much less resilient than was the U.S. In any case the international trade decline beginning as a result of the 1929 economic collapse, and the subsequent return by the U.S. beginning in 1934 appear clearly to have been wholly unrelated to Smoot/Hawley.

As we begin to analyze certain specific Schedules appearing in the Tariff Act of 1930 it should be noted that sharp erosion of prices world-wide caused dollar volumes in trade statistics to drop rather more than unit-volume thus emphasizing the decline value. In addition, it must be remembered that as the Great Depression wore on, people simply bought less of everything increasing further price pressure downward. All this wholly apart from Smoot/Hawley.

When considering specific Schedules, No. 5 which includes Sugar, Molasses, and Manufactures Of, maple sugar cane, sirups, adonite, dulcite, galactose, inulin, lactose and sugar candy. Between 1929 and 1933 import volume into the U.S. declined by about 40% in dollars. In price on a world basis producers suffered a stunning 60% drop. Volume of sugar imports declined by only 42% into the U.S. in tons. All these changes lend no credibility to the ''villain'' theory unless one assumes, erroneously, that the world price of sugar was so delicately balanced that a 28% drop in sugar imports by tons into the U.S. in 1930 destroyed the price structure and that the decline was caused by tariffs and not at least shared by decreased purchases by consumers in the U.S. and around the world.

Schedule 4 describes Wood and Manufactures Of, timber hewn, maple, brier root, cedar from Spain, wood veneer, hubs for wheels, casks, boxes, reed and rattan, toothpicks, porch furniture, blinds and clothes pins among a great variety of product categories. Dollar imports into the U.S. slipped by 52% from 1929 to 1933. By applying our own GNP as a reasonable index of prices both at home and overseas, unit volume decreased only 6% since GNP had dropped by 46% in 1933. The world-wide price decline did not help profitability of wood product makers, but to tie that modest decline in volume to a law affecting only 6½% of U.S. imports in 1929 puts great stress on credibility, in terms of harm done to any one country or group of countries.

Schedule 9, Cotton Manufactures, a decline of 54% in dollars is registered for the period, against a drop of 46% in price as reflected in the GNP number. On the assumption that U.S. GNP constituted a rough comparison to world prices, and the fact that U.S. imports of these products was infinitesimal, Smoot/Hawley was irrelevant. Further, the price of raw cotton in the world plunged 50% from 1929 to 1933. U.S. growers had to suffer the consequences of that low price but the price itself was set by world market prices, and was totally unaffected by any tariff action by the U.S.

Schedule 12 deals with Silk Manufactures, a category which decreased by some 60% in dollars. While the decrease amounted to 14% more than the GNP drop, volume of product remained nearly the same during the period. Assigning responsibility to Smoot/Hawley for this very large decrease in price beginning in 1930 stretches credibility beyond the breaking point.

Several additional examples of price behaviour are relevant.

One is Schedule 2 products which include brick and tile. Another is Schedule 3 iron and steel products. One outstanding casualty of the financial collapse in October, 1929 was the Gross Private Investment number. From $16.2 Billion annually in 1939 by 1933 it has fallen by 91% to just $1.4 Billion. No tariff policy, in all candor, could have so devastated an industry as did the economic collapse of 1929. For all intents and purposes construction came to a halt and markets for glass, brick and steel products with it.

Another example of price degradation world-wide completely unrelated to tariff policy is Petroleum products. By 1933 these products had decreased in world price by 82% but Smott/Hawley had no Petroleum Schedule. The world market place set the price.

Another example of price erosion in world market is contained in the history of exported cotton goods from the United States. Between 1929 and 1933 the volume of exported goods actually increased by 13.5% while the dollar value dropped 48%. This result was wholly unrelated to the tariff policy of any country.

While these examples do not include all Schedules of Smoot/Hawley they clearly suggest that overwhelming economic and financial forces were at work affecting supply and demand and hence on prices of all products and commodities and that these forces simply obscured any measurable impact the Tariff Act of 1930 might possibly have had under conditions of several years earlier.

To assert otherwise puts on those proponents of the Smoot/Hawley ''villian'' theory a formidable challenge to explain the following questions:

1. What was the nature of the ''trigger'' mechanism in the Act that set off the alleged domino phenomenon in 1930 that began or prolonged the Great Depression when implementation of the Act did not begin until mid-year?

2. In what ways was the size and nature of U.S. foreign trade in 1929 so significant and critical to the world economy's health that a less than 4% swing in U.S. imports could be termed a crushing and devastating blow?

3. On the basis of what economic theory can the Act be said to have caused a GNP drop of an astounding drop of 13.5% in 1930 when the Act was only passed in mid-1930? DId the entire decline take place in the second half of 1930? Did world-wide trade begin its decline of some $13 Billion only in the second half of 1930?

4. Does the fact that duty free imports into the U.S. dropped in 1930 and 1931 and in 1932 at the same percentage rate as dutiable imports support the view that Smoot/Hawley was the cause of the decline in U.S. imports?

4. Is the fact that world wide trade declined less rapidly than did U.S. foreign trade prove the assertion that American trading partners retaliated against each other as well as against the U.S. because and subsequently held the U.S. accountable for starting an international trade war?

5. Was the international trading system of the Twenties so delicately balanced that a

single hastily drawn tariff increase bill affecting just $231 Million of dutiable products in the second half of 1930 began a chain reaction that scuttled the entire system? Percentage-wise $231 Million is but 0.65% of all of 1929 world-wide trade and just half that of world-wide imports.

The preponderance of history and facts of economic life in the international area make an affirmative response by the ''villain'' proponents an intolerable burden.

It must be said that the U.S. does offer a tempting target for Americans who incessantly cry ''mea culpa'' over all the world's problems, and for many among our trading partners to explain their problems in terms of perceived American inability to solve those problems.

In the world of the Eighties U.S. has indeed very serious and perhaps grave responsibility to assume leadership in international trade and finance, and in politics as well.

On the record, the United States has met that challenge beginning shortly after World War II.

The U.S. role in structuring the United Nations, the General Agreement on Tariffs and Trade (GATT), the International Monetary Fund, the Bretton Woods and Dumbarton Oaks Conference on monetary policy, the World Bank and various Regional Development Banks, for example, is a record unparalleled in the history of mankind.

But in the Twenties and Thirties there was no acknowledged leader in International affairs. On the contrary, evidence abounds that most nations preferred the centuries-old patterns of international trade which emphasized pure competition free from interference by any effective international supervisory body such as GATT.

Even in the Eighties examples abound of trading nations succumbing to nationalistic tendencies and ignoring signed trade agreements. Yet the United States continues as the bulwark in trade liberalization proposals within the GATT. It does so not because it could not defend itself against any kind of retaliation in a worst case scenario but because no other nation is strong enough to support them successfully without the United States.

The basic rules of GATT are primarily for all those countries who can't protect themselves in the world of the Eighties and beyond without rule of conduct and discipline.

The attempt to assign responsibility to the U.S. in the Thirties for passing the Smoot/Hawley tariff act and thus set off a chain reaction of international depression and war is, on the basis of a prepondance of fact, a serious mis-reading of history, a repeal of the basic concept of cause and effect and a disregard for the principle of proportion of numbers.

It may constitute a fascinating theory for political mischief-making but it is a cruel hoax on all those responsible for developing new and imaginative measures designed to liberalize international trade.

Such constructive development and growth is severely impeded by perpetuating what is no more than a symbolic economic myth.

Nothing is less worthwhile than attempting to re-write history, not learning from it. Nothing is more worthwhile than making careful and perceptive and objective analysis in the hope that it may lead to an improved and liberalized international trading system.

Mr. HOLLINGS. One, Smoot-Hawley, Mr. President, was passed 8 months after the crash. It could not have caused the crash we had that occurred in 1929. Smoot-Hawley was June 1930.

It only affected one-third of the trade. As is stated here, Alan William Wolff, in ''Improving United States Trade Policy,'' ''Smoot-Hawley was only half of that which had been put into effect by the Fordney-McCumber Tariff Act of 1922. Even after enactment of Smoot-Hawley, two-thirds of all U.S. imports, in value, entered the United States duty-free.''

A statement, also, by the distinguished professor of economics at MIT, Paul Krugman, who just recently had an article, and we will get to that—I did not realize this was coming up —in the London Economist relative to monetary policy. He stated, in ''The Age of Diminished Expectations,'' ''In popular arguments against protectionism, the usual warning is that protectionism threatens our jobs—the Smoot-Hawley tariff of 1931, we are told, caused the Depression, and history can repeat itself.''

The claim that protectionism caused the Depression is nonsense; the claim that future protectionism will lead to a repeat performance is equally nonsensical.

Now, Mr. President, within 3 years in 1933 we had a plus balance of trade. Trade at that time was only about 1 percent of our GNP. It is up to about 17 percent to 18 percent. It was not a factor, really, but that is the false history that these politicians run around and they will call the Senator from North Dakota ''Smoot,'' and they will call the Senator from South Carolina ''Hawley.'' There they are on the floor again. They are trying to get in protectionism and start a depression.

Mr. President, when they get to trade deficits, I have another article that we want to have printed in the RECORD, because they all talk, ''exports, exports, exports.'' They never want to talk about imports.

I want to have printed in the RECORD the merchandise trade deficits since 1979, and I ask unanimous consent to have it printed in the RECORD at this point.

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

Merchandise trade deficit since 1979

	Billion
1979	$27.6
1980	25.5
1981	28.0
1982	36.0
1983	67.1
1984	112.5
1985	122.2
1986	145.1
1987	159.6
1988	127.0
1989	115.0
1990	109.0
1991	73.8
1992	96.1
1993	132.6
1994	166.1
1995	174

Mr. HOLLINGS. Mr. President, it shows we lost 1.5 trillion bucks in deficits. That means more imports than exports. I could get into the argument about exports creating 20,000 jobs. The Department of Commerce finally revised that just 6 weeks ago. It is only 14,000 jobs. The exports are not the reason.

I am quoting from Business Week, September 2, just 8 days ago:

Indeed, exports are not the reason for the second quarter deterioration in the trade deficit. That blame goes to imports. Exports dipped 0.3 percent in June to $69.7 billion, but much of the decline reflected a drop in the volatile aircraft shipments. For the quarter, total exports rose at a 7.3 percent annual rate, up from 2.6 percent in the first quarter.

So far, the dollar's recent strength has not forced exporters to raise prices. Export prices fell 0.5 percent in July and, excluding farm products and the soaring cost of grain prices, are down 1.6 percent from a year ago. That plus improving economies in Mexico and Canada should continue to lift exports in coming months.

The story for imports is much less encouraging for growth. Despite a 3.3 percent drop in imports in June, goods and services from abroad in the second quarter still soared at a 13.9 percent annual rate, up from an already rapid 11.7 percent gain in the first.

Rather than get into the whole article, every time I get to this particular part of the debate they all want to talk exports, exports, and that is more or less like the octopus squirting oil on the troubled waters and escaping in its own dark mist. Exports are not our problem; they are our opportunity, and we have every office in the Lord's world working with exports. I work with the Export Council and gave out the awards in my own backyard just this past month. But the truth is that it is imports and it is the deficit of $1.5 trillion in the last 12 to 13 years.

Now, Mr. President, the competition, that is what we really want to talk about. The competition is our sales. I remember these folks coming to me in the early days now that we have been in this game for at least 35 years, and the export job creation myth—I use a figure in the debate I got from the Department of Commerce of 41 percent back in 1978, 41 percent of the imports in the United States were U.S. companies that moved their manufacturing offshore, and bringing it back in, the finished product. It was 41 percent then, and since that there has been a deluge. But if you go over there, they give you the 41 percent.

I have been like a detective trying to get the truth out of that crowd, but they are controlled. They are controlled on this particular score, particularly when you make these joint ventures. You cannot go into China. You cannot go into Japan. You cannot go into Indonesia unless you make a joint venture, and that part you have 49 and they have 50 percent, and that part of your manufacturing, the 49 percent, is not counted in the figures. That is why we do not realize how we have gone from some 26 percent in manufacturing 10 years ago down to 13 percent.

However, 50 percent of the U.S. exports come from 100 companies, 80 percent from 250 companies, a very small part. Our distinguished colleague from North Dakota is talking about small

business. These are the same companies, now, that have been the largest downsizers.

Did you hear that right? Those are the ones who were talking about downsizing. General Electric in 1985 had 243,000 jobs; in 1995, they are down to 150,000. IBM shaved 132,000 jobs in the last 10 years; it now employs more people abroad than at home. Abroad is 116,000. We have a foreign company—Mr. President, IBM is not a United States company any longer. They have more workers overseas, 116,000 and 111,000 here. Intel reduced U.S. employment last year 22,000, down to 17,000. General Motors in 1985 had 559,000 and are down to 314,000 last year.

I ask unanimous consent to have printed in the RECORD at this point another emphasis on this measure, and that is by William Greider on August 8, 1996, in the Rolling Stone, ''How the taxpayer-funded Export-Import Bank helps ship the jobs overseas.''

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

THE EX-IM FILES

HOW THE TAXPAYER-FUNDED EXPORT-IMPORT BANK HELPS SHIP JOBS OVERSEAS

(By William Greider)

WASHINGTON, D.C.—As the Nation's salesman in chief, Bill Clinton looks like a smashing success. When Clinton came to office, his long-term strategy for restoring American prosperity had many facets, but the core of the plan could be summarized in one word: exports. The U.S. economy would boom or stagnate, it was assumed, depending on how American goods fared in global markets. So the president mobilized the government in pursuit of sales.

Flying squads of Cabinet officers, sometimes accompanied by corporate CEOs, were dispatched to forage for buyers in foreign capitals from Beijing to Jakarta. The Commerce Department targeted 10 nations—India, Mexico and Brazil among them—as the ''big emerging markets.'' Trade negotiators hammered on Japan and China to buy more American stuff. And two new agreements were completed—GATT and NAFTA—to reduce foreign tariffs.

U.S. industrial exports have soared in the Clinton years, from $396 billion during the recessionary trough of 1992 to around $520 billion last year. And as this administration has said time and again, more exports means more jobs—usually good jobs with higher wages. In his fierce commitment to trade, Clinton is not much different from Ronald Reagan, who (notwithstanding his laissezfaire pretensions) also played hardball on trade deals and, in some cases, intervened with more effective results. George Bush, too, bargained on behalf of corporate interests and played globe-trotting salesman. Promoting exports and foreign investment is not a new idea; it has enjoyed a bipartisan political consensus for decades.

What does seem to be new in American politics are the thickening doubts among citizens and a rising chorus of critics, informed and uninformed, who question Washington's assumptions about exports. The conventional strategy, the critics argue, may help the multinational companies turn profits, but does it really serve American workers and the broad public interest? The new realities of globalized production play havoc with the old logic of exports-equal-jobs. Sometimes it is the jobs that are exported, too.

This contradiction, usually covered up with platitudes and doublespeak in political debate, becomes powerfully clear when you look closely at the dealings of an obscure federal agency located just across Lafayette Park from the White House: the U.S. Export-Import Bank with only 440 civil servants and a budget of less than $1 billion—small change as Washington bureaucracies go.

Yet America's most important multinational corporations devote solicitous attention to the Ex-Im Bank. Their lobbyists shepherd its appropriation through Congress every year and defend the agency against occasional attacks. Why? The Ex-Im Bank provides U.S. corporations with hundreds of millions of dollars each year in financial grease that smooths their trade deals in the new global economy.

This year, Ex-Im will pump our $744 million in taxpayer subsidies to America's export producers, financing the below-market loans and loan guarantees that help U.S. companies sell aircraft, telecommunications equipment, electric power turbines and other products—sometimes even entire factories—to foreign markets. Since the biggest subsidies always go to the largest corporations, skeptics in Congress sometimes refer to Ex-Im as the Bank of Boeing. It might as well be called the Bank of General Electric—or AT&T, IBM, Caterpillar or other leading producers. Ex-Im's senior officers call these firms ''the customers.''

But the banker-bureaucrats at Ex-Im see their main mission as fostering American employment. ''Our motto is, Jobs through exports,'' says James C. Cruse, vice president for policy planning, ''Exports are not the end in itself, so we don't care about the company and the company profits.'' That was indeed the purpose when the bank was chartered as a federal agency back in 1945 and the reason it has always enjoyed broad support, including that of organized labor.

At this moment, the tiny agency is under intense pressure from influential U.S. multinationals to change the rules of the game. Specifically, the companies want taxpayer money to subsidize the sale of products that aren't actually manufactured in America. They want subsidies for products that are not really U.S. exports, since companies ship them from their factories abroad to buyers in other foreign countries. If the rules aren't changed, the exporters warn, they will lose major deals in the fierce global competition and may be compelled to move still more of their production offshore.

''Global competitiveness, multinational sourcing and the deindustrialization of the U.S.'' wrote Cruse in a policy memo for the bank,'' were the three most common factors that exporters cited as reasons to revise Ex-Im Bank's foreign content policy. . . . U.S. companies need multisourcing to be able to compete with foreign companies. Foreign buyers are becoming more sophisticated and they are expressing certain preferences for a particular item to be sourced foreign . . . [and] U.S. suppliers may not always exist for a particular good.''

In plainer language, foreign is usually cheaper—often because the wages are much lower—and sometimes better. As U.S. producers have begun to buy more hardware and machinery overseas, the capacity to make the same components in the United States has diminished or even disappeared. What the companies want in Cruse's bureaucratic parlance, is ''broadly based support for foreign-sourced components.''

As the complaints from American firms swelled in the last few years, Ex-Im officials agreed to convene the Foreign Content Policy Review Group to explore how the U.S. financing rules might be relaxed. The review group's members include 11 major exporters (General Electric, AT&T, Boeing, Caterpillar, Raytheon, McDonnell Douglas and others) plus several labor representatives from the AFL-CIO and the machinists' and textile-workers' unions.

The Ex-Im Bank must decide who wins and who loses—a fundamental argument over what is in the national interest, give globalized business. The review group discussions are couched in polite police talk, but they speak directly to the economic anxieties of Americans. If young workers worried about their livelihood could hear what these powerful American companies are saying in private, there would be many more sleepless nights in manufacturing towns across this Nation. The information below is taken from confidential Ex-Im Bank members that were recently leaked to me. What these executives have to say is not reassuring, but it's at least a more accurate vision of the future than anything you are likely to hear from this year's political candidates.

A decade ago the rule was simple: Ex-Im would not underwrite any trade package that was not 100 percent U.S.-made. Then and now Ex-Im scrutinizes the content of very large export projects, item by item. to establish the national origin of subcomponents. Any subcomponents produced offshore must be shipped back to American factories to be incorporated into the final assembly. If Caterpillar sells 10 earthmoving machines to Indonesia all 10 of them have to come out of a U.S. factory to get a U.S. subsidy, even if the axles or engines were made abroad.

By the late 1980s, however, as major manufacturers pursued globalization strategies that moved more of their production offshore. Ex-Im, with labor approval opened the door. In 1987 it agreed to finance deals with 15 percent foreign inside content. Partial financing would also be provided for export deals that involved at least 50 percent U.S. content.

Now the multinationals are back at the table again, demanding still more latitude. The bank's rules, they complain, have created a bureaucratic snarl that threatens U.S. sales. These regulations are oblivious to the complexities of modern trade which multinationals routinely ''export'' and ''import'' huge volumes of goods internally—that is among their own fur-flung subsidiaries or foreign joint ventures.

The flavor of the company complaints is revealed in Ex-Im Bank minutes of the review group's first meeting last year, where various company managers sounded off about the new global realities. David Wallbaum, from Caterpillar, urged the bank to be ''more flexible in supporting foreign content,'' according to the minutes, General Electric's Selig S. Merber said GE needs ''access [to] worldwide pricing.'' Merber proposed that instead of insisting on American content item by item, Ex-Im look only at the U.S. aggregate.

Lisa DeSoto of Fluor Daniel, one of America's largest construction engineering firms, suggested in a follow-up memo that Ex-Im subsidize ''procurement from the NAFTA countries,'' Mexico and Canada as if the goods were from the U.S.

But it was Angel Torres, a representative for AT&T, who spoke more bluntly than the others, AT&T's foreign content has grown in the last 10 years because the U.S. is becoming a ''service-oriented society,'' Torres said, according to the minutes. ''AT&T's priority,'' he declared, ''is to increase the allowable percentage of foreign content.''

When I rang up these corporate managers and some others to ask them to elaborate on their views, all of them ducked my questions. The one exception was David L. Thornton, a manager from Boeing, whose newest jetliner, the 777, actually involves 30

percent foreign content in the manufacturing process (mostly from Japan). It still qualifies for full Ex-Im financing. Thornton explained, because Boeing's original investment in research and development also counts in the sales price. ''Our general view of 75 percent is we can live with it for the time being,'' Thornton said, ''but over time it probably won't be adequate.''

The labor-union representatives, not surprisingly, choked at the ominous implications of such comments—especially the matter-of-fact references to America's de-industrialization. Corporate leaders and politicians, after all, have been celebrating the ''comeback'' of American manufacturing in the 1990s. Exports are booming, and U.S. competitiveness has supposedly been restored, thanks to the corporate restructurings and downsizings. Stock prices are rising, and shareholders are happy again.

The private corporate view is not so cheery for the employees. A memo from one multinational corporation (its identity whited-out by Ex-Im bureaucrats) made it sound like the demise of American manufacturing is already inevitable. ''We believe the current policy does not reflect the de-industrialization of the U.S. economy and the rise of the Western European and Asian capabilities to produce high-tech quality equipment . . .'' the memo states. ''Location is no longer important in the competitive equation, and where the suppliers of components will be [is] wherever the competitive advantage lies.''

The more that labor heard from the companies, the more hostile it became to any revision. ''We have been presented with no credible evidence that current bank policies have cost companies sales, thereby reducing U.S. employment,'' the labor representatives fired back in a jointly signed letter in April. ''While we understand that global corporations might prefer fewer restrictions—even the provision of financing regardless of the effect on jobs in the United States—that desire simply ignores the very purpose of extending taxpayer-based credit.''

If Ex-Im agrees to finance more foreign content, the labor reps asked, won't that simply encourage the multinationals to move still more U.S. jobs overseas, thus accelerating deindustrialization? When I put this question to Ex-Im officials and corporate spokesmen, their answer was a limp assurance that this isn't what the bank or the companies have in mind.

But can anyone trust these assurances? The massive corporate layoffs have sown general suspicions of the companies' national loyalties, and the ''outsourcing'' of high-wage jobs has already boiled up as a strike issue in major labor-management confrontations. The United Auto Workers shut down General Motors earlier this year over that question. The UAW lost a long, bitter strike at Caterpillar when it demanded wage cutbacks, threatening to relocate production if the union didn't yield. The International Association of Machinists and Aerospace Workers closed down Boeing's assembly lines for two months last fall, demanding a stronger guarantee of job security as Boeing globalizes more of its supplier base.

''Ex-Im financing is corporate welfare with a fig leaf of U.S. jobs, and now they want to take away the fig leaf,'' says Mark A. Anderson, director of the AFL' task force on trade. ''They want to be able to ship stuff from Indonesia to China and use U.S. financing, I said to them, 'You're nuts. If you go ahead with this, you're going to be eaten alive in Congress.'''

George J. Kourpiss, president of the machinists' union whose members make aircraft at Boeing and McDonnell Douglas, and jet engines at GE and Pratt & Whitney, put it more starkly: ''The American people aren't financing that bank to take work away from us. If the foreign content gets bigger, then we're using the bank to destroy ourselves.''

EXPORTS—JOBS

According to the government's dubious rule of thumb, each $1 billion in new exports generates 16,000 jobs. By that measure, Bill Clinton's traveling salesmen brought home 2 million good jobs. So why is there not greater celebration? The first, most-obvious explanation is imports. Foreign imports soared, too, albeit at a slower rate of growth, and so America's trade deficit with other nationals actually doubled in size under Clinton, despite his aggressive corporate strategy. Thus a critic might apply the government's own equation to Clinton's trade deficit and argue that there was actually a net loss of 11 million good jobs.

Bickering over the trade arithmetic, however, does not get to the heart of what's happening and what really bothers people: the specter of continued downsizing among the nation's leading industrial firms. In fact, globalization has created a disturbing anomaly. U.S. exports multiply robustly, yet meanwhile the largest multinationals that do most of the exporting are shrinking dramatically as employers. It's important to note that about half of U.S. manufacturing exports comes from only 100 companies, and 80 percent from some 250 firms, according to Ex-Im's executive vice president, Allan I. Mendelowitz. The top 15 exporters—names like GM, GE, Boeing, IBM—account for nearly one quarter of all U.S. manufactured exports. Yet these same firms are shedding American employers in alarming dimensions. The 15 largest export producers with few exceptions have steadily reduced their U.S. work forces during the past 10 years—some of them quite drastically—even though their export sales nearly doubled.

GE is a prime example because the company is widely emulated in business circles for its tough-minded corporate strategies. In 1985, GE employed 243,000 Americans and 10 years later, only 150,000. GE became stronger, then Executive Vice President Frank P. Doyle said. But, he conceded. We did a lot of violence to the expectations of the American work force.

So, too, did GM, the top U.S. exporter in dollar volume (though the auto companies are not big users of Ex-IM financing). GM has shrunk in U.S. work force from 559,000 to 314,000. IBM shed more than half of its U.S. workers during the past decade (about 132,000 people). By 1995, Big Blue had become a truly global firm—with more employees abroad than at home (116,000 to 111,000). Even Intel, a thriving semiconductor maker, shrank U.S. employment last year from 22,000 to 17,000. Motorola has grown, but its work force is now only 56 percent American.

The top exporters that increased their U.S. employment didn't begin to offset the losses. The bottom line tells the story. The government's great substitute for America's major multinational corporations has not been reciprocated, at least not for American workers. The contradiction is not quite as stark as the statistics make it appear, because the job shrinkage is more complicated than simply shipping jobs offshore. Some companies eliminated masses of employees both at home and abroad. Others, like Boeing, reduced payrolls primarily because global demand weakened in their sectors. Some jobs were wiped out by labor-saving technologies and reorganizations. But virtually all of these companies offloaded major elements of production to lower-cost independent suppliers, both in the U.S. and overseas. If the jobs did not disappear, the wages were downsized.

This dislocation poses an important question, which American politicians have not addressed. Does the success of America's multinationals translate into general prosperity for the country or merely for the companies and their shareholders? The question is a killer for politicians—liberals and conservatives alike—because it challenges three generations of conventional wisdom. That's why most Democrats or Republicans never ask it.

When these facts are mentioned, the exporters retreat to a few trusty justifications. First there is the ''half a loaf'' argument. Yes, it is unfortunately true that companies must disperse an increasing share of the production jobs abroad, either to reduce costs or to appease the foreign customers. But if this were not done, there might be no export sales at all and, thus, no jobs for Americans. Next, there is the ''me, too'' argument. All of the other advanced industrial nations have export banks that provide financing subsidies to their multinationals. The export banks in Europe do allow greater foreign content than the U.S.—but only if the goods originate from an allied nation in the European community. France supports German goods and vice versa, just as Michigan supports California. The U.S. Ex-Im Bank, as Mendelowitz has pointed out, actually provides greater risk protection and generally charges lower premiums.

Japan's Ex-Im bank is indeed more flexible than America's, but Japan's industrial system also operates on a very different principle; major Japanese corporations take responsibility for their employees. That understanding creates a mutual trust that allows both the government and the firms to pursue more sophisticated globalization strategies. Japanese jobs are regularly eliminated when Japan's manufacturing is relocated offshore in Asia or in Europe (and sometimes in the U.S.), but the companies find new jobs for displaced employees and only rarely, reluctantly, lay off anyone.

''The situation that our companies see,'' Ex-Im's Cruse explains, ''is that Japan is willing to finance as much as 50 percent foreign content, and [the companies] say to us, ''You're not competitive.'' But an important difference is that the Japanese government doesn't have to worry about the workers because the Japanese companies worry about them. . . . If GE subcontracts work to Indonesia, it tends to lay off a line of workers back in the U.S.''

BAIT AND SWITCH

In April 1994, AT&T announced a $150 trillion joint venture with China's Qingdao Telecommunications to build two new factories, in the Shandong province and in the city of Chengdu, in the Sichuan province, that will manufacture the high-capacity 5ESS switch, the heart of AT&T's advanced telephone systems. AT&T's chairman, Robert Allen, said that it will more than double its Chinese work force over the next two or three years.

Five months later, in September, the Ex-Im Bank in Washington approved the first of $87.6 million in loan guarantees to underwrite AT&T's export sales to China—switching equipment that will modernize the phone systems in Qingdao and several other cities. AT&T won the contract in head-to-head competition with Canada's Northern Telecom, Germany's Siemens and France's Alcatel Alsthom. The Clinton administration celebrated another big win for the home team.

But who actually won in this deal? A Telecom Publishing Group article provided a different version of what AT&T's victory meant for the United States. ''While some equipment for AT&T's network projects in China will be built in this country,'' the article reported, ''the Chinese are demanding

that eventually the bulk of the equipment in their system be built in their country, the carrier [AT&T] said.''

An AT&T public-affairs vice president, Christopher Padilla, denies this, but then Padilla also denies that AT&T is prodding the Ex-Im Bank to relax its foreign-content rules. Further, he assures me that despite their proximity, there was no explicit quid pro quo and no connection between the two transactions, the taxpayer-financed export sales and AT&T's agreement to build new factories in China.

''It's a reality of the marketplace,'' Padilla says. ''If we tried to pursue a strategy of just making everything in Oklahoma City''—where the 5ESS switch is now manufactured—''we wouldn't have any market share at all.''

The White House also led cheers for Boeing because Boeing was also stomping its competitors in the Chinese market. In 1994 alone, Boeing sold 21 737s and seven 757s to various Chinese airlines and obtained nearly $1 billion in Ex-Im loans to finance the deals. When President Clinton hailed the news, he did not mention that Boeing had agreed to consign selected elements of its production work to Chinese factories. The state-owned aircraft company at Xian, for instance began making tail sections for the 737, work that is normally done at Boeing's plant in Wichita, Kan. The first order for Xian was for 100 sets, but that was just the beginning. In March 1996, a China news agency boasted that Boeing had agreed to buy 1,500 tail sections from Chinese factories, both for the 737 and the 757. The deal was described as ''the biggest contract in the history of China's aviation industry.''

Unlike AT&T and some others, Boeing is relatively straightforward about acknowledging that it's trading away jobs and technology for foreign sales. China intends to build its own world-class aircraft industry, and Boeing helps by giving China a piece of the action, relocating high-wage production jobs from America to low-wage China, as well as relocating some elements of the advanced technology that made Boeing the world leader in commercial aircraft. Boeing has told its suppliers to do the same. Northrop Grumman, in Texas, is sharing production of 757 tail sections with Chengdu Aircraft, in China.

''What we've done with China,'' says Lawrence W. Clarkson, Boeing's vice president for international development, ''we've done for the same reason we did it with Japan—to gain market access.'' The two transactions—the export sales and job transfers—are legally separate but typically negotiated in tandem, Clarkson explains. China always insists upon a written acknowledgement of the job commitment in the export sales contract—the same sale to China submitted to the Ex-Im Bank for its financial assistance.

Until recently, the Ex-Im Bank's operative policy on this issue could be described as ''don't ask, don't tell'': The bank officials didn't ask the companies if they were offloading jobs, and the companies didn't tell them. When I asked various Ex-Im managers if they knew about AT&T's new switch factories in China before they approved AT&T's export financing their answer was no. What about companies like Boeing doing similar deals?

''Yes, we're aware of that,'' Cruse says. It's not that the companies tell us, but it's not hard to read the newspapers.''

After prodding from labor officials, the bank last year began requiring exports to reveal whether they dispersed U.S. jobs or technology in connection with the Ex-Im-financed sales. But the federal agency still approves these deals without weighing the potential impact on future employment. In fact, Ex-Im still pretends that the export sales and corporate decisions to relocate jobs are unrelated transactions, though every company knows otherwise.

The practice of swapping jobs for sales is widespread in global trade—deals are negotiated in secrecy because such practices ostensibly violate trade rules. But everyone knows the game, and most everyone plays it. If Boeing doesn't swap jobs for Chinese sales, then its European competitor Airbus will. If AT&T doesn't move its switch manufacturing to China, then Siemens or Alcatel will (in fact, Alcatel already has). The cliché at Boeing is ''60 percent of something is better than 100 percent of nothing.''

The trouble is that nothing may be what many American workers wind up with anyway—especially if China eventually becomes a world-class aircraft producers itself. Officials at the Communications Workers of America, which represents AT&T workers, recall that Ma Bell once made all its home telephones in the U.S. and now makes none here.

Is the same migration under way now for the high-tech switches? The AT&T spokesman insists not. Anyway, he adds the assurance that the most valuable input in these switches is the software, not the hardware from the factories, and the design work is still American. This may reassure the techies, but it's not much comfort to those who work on the assembly lines. Besides, AT&T plans to open a branch of Bell Laboratories in China.

The dilemma facing American multinationals is quite real, but the question remains: Why should American taxpayers subsidize export deals contingent on increased foreign production, or even offloading portions of the American industrial base? Americans are told repeatedly that they cannot exercise any influence over these global firms, but that claim is mistaken. The Ex-Im Bank is an important choke point in the bottom line of these multinationals. Americans should demand that the subsidies be turned off, at least for the largest companies, until the multinationals are willing to provide concrete commitments to their work forces.

The gut issue is not about economics but about national loyalty and mutual trust. ''Every meeting we have in the union, we open it with the pledge of allegiance,'' machinists union president George Kouepias muses, ''Maybe the companies should start doing that at their board meetings.''

Mr. HOLLINGS. Now, Mr. President, that gives a general feel for the amendment that I cosponsored with the Senator from North Dakota, just a minuscule part, but it will start maybe in the other direction the conscience and the awareness and the understanding of us as Senators about this important particular problem.

We are giving deferrals of $2.2 billion over 7 years to companies using your taxpayer money and my taxpayer money. Talking about the deficit, using our taxpayer money to get them out of the country, to lose the jobs. We have a financial gimmick, the Eximbank; they call it the ''bank of Boeing'', to, by gosh, move the jobs over there.

Now they have taken over in Europe, and you watch, in China, they are demanding now and they have in the RECORD the particular article that we had about the number of tail assemblies being manufactured for the 27 747 planes ordered by the People's Republic of China. We have now orders over there to manufacture in China over 1,000 planes. So, gradually the value to the economy of these exports is being diminished. We are losing, losing, losing, and we act like we are happy about it, running around here competing with ourselves over 60 percent of exports and imports being U.S.-generated.

I don't blame the Chinese, the Japanese, and all for the ignorance or the lack of awareness on the part of the Government of the United States and its policy. I would ride a free train. I do blame—the agents of influence, Senator. They got 100 Washington law firms, paid $113 million to represent one country—Japan. Do you know what it is for the 100 Senators and the 435 House Members? Mr. President, $71.3 million. The people of Japan, by way of pay, are represented better in Washington than the people of the United States. When are we going to wake up? When are we going to sober up? When are we going to compete? You will get a little flavor of it in an hour when they announce that Vice President fellow, because he will run all over the country and run a touchdown. I am telling you right now you are going to see an ''O.J.'' going around running touchdowns economically when this fellow gets started because he knows the subject.

This is a serious amendment to bring the attention of the U.S. Senate to this all-important problem of losing our standard of living and jobs. Let's quit financing it, let's stop subsidizing it, let's stop bankrolling it, and let's stop using that symbolic nonsense of free trade and protectionism. We have to come here and start protecting our industrial backbone. Your security as a nation is like a three-legged stool. One leg is the values of a nation. We sacrificed to feed the hungry in Somalia. We sacrificed to build democracy in Haiti. We sacrificed to try to build peace in Bosnia. Unquestioned. The second leg, Mr. President, is that of military strength. Unquestioned. The third leg, economic strength, is fractured. Our stool of the United States is about to topple because what we are talking about is family values and homosexual marriages and all kind of them silly things coming around here like we in Congress can control these things, and our duty and responsibility to pay the bill goes wanting. Our duty and responsibility is to develop, in a bipartisan fashion, a competitive trade policy because that is what we are into. Europe is protectionist. They enforce their laws. In 1980, we had a $4 billion deficit in the balance of textile trade, and Europe had it. They enforced their particular trade laws and they are down to less than $1 billion, and we are up to a $36 billion deficit in the balance on textile trade. So the Senator from New Hampshire has to know where his textile industry has gone. I thank the distinguished colleagues. I thank, particularly, the Senator from North Dakota.

I yield the floor.

Mr. KERRY. Mr. President, I am pleased to support the amendment by my colleague, the Senator from North Dakota.

Mr. President, we must balance the budget. We cannot set our sights lower than that goal. Earlier in this session of Congress, I introduced a bill which would cut wasteful and unnecessary spending by $90 billion over 7 years. This spring, I worked with my distinguished colleague from Arizona [Senator MCCAIN], to reduce spending programs, subsidies, and corporate welfare by $60 billion over 6 years. And most recently, I introduced the Family Income and Economic Security Act—a 20-point program to provide education, job, income and retirement security for Americans while eliminating wasteful spending and costly, counterproductive subsidies and giveaways. This provision is an integral part of that 20-point plan.

Mr. President, it is clear that all sectors of our society must contribute to the effort of deficit reduction. That includes the private business sector.

The Dorgan-Kerry amendment would close a noxious loophole in our Tax Code which is costing the American taxpayers $2.2 billion over 7 years. And, Mr. President, what adds insult to injury is the fact the current tax law also encourages domestic manufacturers to move their plants overseas. The Senator from North Dakota is quite correct in calling this loophole the job export subsidy. This is clearly something the American taxpayers and our national economy cannot afford.

This is not just a hypothetical situation. I ask unanimous consent to have printed in the RECORD a compelling article from the Boston Globe which describes the effect of this loophole on Massachusetts companies and their workers.

Mr. President, if we are to remain a competitive Nation, we must do all we can to eliminate our budget deficit, reduce our national debt, maintain robust economic growth, and encourage manufacturers to retain high-wage jobs on our shores. This amendment moves us in that direction and I encourage our colleagues to support it.

I yield the floor.

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

[From the Boston Globe, July 8, 1996]

TAX CODE GIVES COMPANIES A LIFT

(By Aaron Zitner)

WASHINGTON.—When Robert M. Silva's job moved to Singapore two years ago, his company flew him overseas so he could train his replacement. Then the company closed its North Reading factory, laid off Silva and 119 co-workers and began importing from its Asian plant medical products once made in Massachusetts.

Moving jobs to Singapore had obvious advantages for Baxter International Inc. Taxes are low, and Silva's $26,000 salary was far higher than what the company pays his replacement.

But Baxter reaped another reward for moving overseas: a tax break, courtesy of the United States government. In the name of boosting US business, the tax code offers a special benefit to companies that move jobs offshore, a gift also accepted by Massachusetts employers such as Stratus Computer Inc. of Marlborough (500 layoffs last year), Augat Inc. of Mansfield (260 layoffs) and the Shrewsbury division of Quantum Corp. (85 layoffs), among others.

It is one of many tax breaks that ripple perversely through the economy—favoring multinationals over small firms, investors over average taxpayers and foreign workers over those at home.

The federal government gives up about $70 billion each year through corporate tax breaks, enough to cover the IRS bill for every Massachusetts resident two times over. Corporate tax breaks carry a lower political profile than direct subsidies to businesses for programs such as the one that helps McDonald's Corp. sell Chicken McNuggets overseas. But they cost about as much. For a nation trying to balance its budget and pay for social services tax benefits to businesses are a gold mine.

''The tax code is a major source of corporate welfare,'' says US Rep. Lane Evans, an Illinois Democrat. ''Not only that, but we are using our tax dollars in a way that hurts our own economy. It drains our treasury. It forces average Americans to bear a larger share of the tax burden.''

The Clinton administration says that closing some tax breaks may force companies to raise prices and lose customers, and therefore pay less taxes. ''There are two sides to every part of this,'' says Leslie Samuels, until recently the Treasury Department's tax policy chief. ''If you're thinking that there's hundreds of billions of dollars, it's not there.''

Republican lawmakers have actually moved to widen some tax breaks. A 1993 law, for example, narrowed the provision that benefited Baxter International, Stratus and Augut, but a GOP bill scheduled for debate on the Senate floor today would fully restore the loophole.

Other lawmakers and analysts disagree with that approach. At a time when Medicare, Medicaid and other social welfare programs are being curtailed, they say, many tax policies which explicitly benefit corporations cannot be justified. These critics argue:

The US should not give tax breaks for breaking the law. For example, after testing faulty medical products on unwitting hospital patients, C.R. Bard Inc. paid $61 million in penalties in 1993. But the pain was tempered by the tax code, which allowed Bard to take half the fine as a tax deduction.

Tax breaks to boost exports are not worth the cost. Companies naturally will try to sell their products overseas, so export incentives worth at least $7 billion a year are a waste of money.

Too many companies pay no taxes at all. Nearly 60 percent of US-controlled corporations and 74 percent of foreign companies doing business here paid no federal tax in 1991, the last year figures were available. Critics say the US is not tough enough on companies that use illegal accounting maneuvers to shift profits to low-tax nations. The amount lost to the Treasury each year: as much as $40 billion over and above the $70 billion in legal tax breaks.

Congress must stop the bidding war among the states for jobs, in which companies win ever-greater tax breaks to relocate. It should not let states use federal tax dollars when ''poaching'' jobs from other states. Labor Secretary Robert Reich calls it ''one of the most egregious forms of corporate welfare.''

Congress and the Clinton administration have cut some tax concessions to businesses. They curtailed deductions for meals, sports tickets and country club dues, raising $3 billion a year in tax revenue. They also banned write-offs for ''excessive'' executive salaries, those over $1 million, raising $70 million annually. And they have worked out a deal—not yet final—to phase out a tax break for companies that build plants in Puerto Rico, which costs $2.6 billion a year in tax revenue.

But as a presidential candidate, Clinton promised more. He vowed to make foreign companies, widely accused of underpaying US taxes, pay $45 billion more over four years. Clinton has taken steps in this direction, but Treasury officials cannot show how much money has been gained. Moreover, the president has done little to fulfill another promise in his 232-page campaign platform, called ''Putting People First,'' to ''end tax breaks for American companies that shut down their plants here and ship American jobs overseas.''

INCENTIVE TO LEAVE

Just ask Robert Silva.

A 33-year-old father of two, Silva spent six years at the C.R. Bard plant in North Reading. He assembled and tested infusion pumps, devices that allow patients to receive regular injections without a nurse or traditional needle.

In 1993, the Bard unit was bought by Illinois-based Baxter. ''They promised us the world. Then they moved the plant to Singapore after telling us they wouldn't,'' says Silva of Nashua. About 130 people lost their jobs. ''It was quite the shock. People were in tears that day.''

One incentive for Baxter's move, critics say, was a tax break known as the ''runaway plant loophole,'' which accounts for $1.7 billion each year in lost tax revenue. Here's how it works:

The US taxes the worldwide profits of American companies. A million dollars earned in Ireland, for example, will be taxed at the US rate of 35 percent, minus the 10 percent tax the company must pay to the Irish government.

But Baxter, or any other company, is not required to pay the US tax bill unless it moves the money home to give to shareholders or to reinvest in the business here. As long as the money remains overseas—invested in foreign plants or banks—Baxter will pay only a small tax to Singapore. That is a total $191 million tax on its overseas profits over the years that the company has no intention of paying.

''The tax code literally says, 'Move your plant overseas and we'll give you a tax break,''' says Sen. Byron Dorgan, a North Dakota Democrat.

The ''runaway plant loophole'' also has saved millions of dollars for Stratus, Quantum, Digital Equipment Corp. of Maynard and many others that have moved New England jobs overseas while deferring US taxes on overseas profits.

''Closing it would discourage further investment in growing our business,'' said Mark Fredrickson, a spokesman for EMC Corp. of Hopkinton, a computer equipment maker that has accumulated $388 million in untaxed overseas profits over the years. ''It helps our profitability and helps secure the local jobs we have. The bigger we become, the more people have to be employed her eat corporate headquarters.''

Many companies take advantage of two other tax breaks designed to encourage exports. By creating a ''foreign sales corporation,'' which often exists only on paper, a firm can claim a tax exemption on some of its export sales. For example, Zoom Telephonics Inc. of Mansfield said recently it lowered its tax rate by selling more products through its foreign sales corporation. These tax rules, created in 1971 and refined in 1984, cost the government $1.5 billion a year.

The US Treasury also forfeits $3.6 billion annually through the ''title passage loophole,'' as Sen. Edward M. Kennedy has dubbed it, which allows companies to claim that some US sales were actually made on foreign soil. Companies do this because they sometimes have foreign tax credits they cannot use unless they show more foreign income.

A BREAK FOR LAWBREAKERS

While the tax code causes pain for some US workers, it provides comfort to some companies that break the law.

Last year, for example, three former executives of C. R. Bard Inc. were convicted of conspiring to conceal flaws in medical catheters manufactured in Billerica and Haverhill. Two deaths allegedly were linked to the catheters, and prosecutors said the faulty devices caused 21 emergency surgeries. Bard's $61 million legal settlement with the government was the largest ever for violations of Food and Drug Administration rules.

But the tax code cushioned the New Jersey-based company. Half of the settlement—$30.5 million—could be used as a tax write-off against earnings. That was the amount Bard paid to settle civil charges. The money was meant to reimburse the Medicare program for buying catheters that should not have been on the market. ''When they earned the money they should not have earned from the catheters, they paid taxes on it. So when they give up those earnings, they should get the taxes back,'' said Michael Loucks, the assistant US attorney who prosecuted Bard.

After agreeing last year to pay the second-largest amount ever in a health-care fraud case—$161 million—Caremark International Inc. plans to take a $110 million charge against earnings, on top of a write-off to cover its legal costs.

Tax law prevents companies from deducting criminal penalties, avoiding an incentive to commit criminal acts. Loucks said Bard did not negotiate with the Justice Department over what portion of the settlement would be a civil penalty, and therefore tax-deductible. But some companies try to. ''Part of the reason companies would rather do civil settlements is because they are deductible,'' he said.

ZERO-TAX ACCOUNTING

Some companies have gone beyond shielding profits from taxes. By stretching or even breaking U.S. accounting rules, they pay no tax at all. Their goal is to shift profits out of the country into low-tax nations like Bermuda, Ireland or Hong Kong. Their tool is the accounting ledger, and critics of the tax code say it is effective.

International Business Machines Corp., for example, paid virtually no tax in 1987, despite $25 billion in U.S. sales. Sen. Kennedy says IBM shifted an undue amount of its worldwide research costs onto its U.S. operation. That raised its American expenses, he says, and lowered its profits. IBM says its accounting practices are legal, but will not comment further.

Similarly, Nissan Motor Corp. of Japan overcharged its U.S. subsidiary for cars, the IRS charged several years ago, lowering its U.S. profits and tax bill. Nissan agreed to pay the IRS $160 million, one of several settlements with the agency the automaker signed between 1987 and 1993.

Both U.S. and foreign companies cut their taxes by profit shifting, but many lawmakers and tax analysts believe the practice is particularly widespread among foreign companies. More than 70 percent of foreign firms paid no tax each year between 1987 and 1991, the IRS reports, compared to about 60 percent of U.S. companies. Clearly, some paid no tax because they did not make a profit, but many lawmakers believe others are illegally shifting profits overseas.

Estimates on the tax revenue loss range from $10 billion to $40 billion a year. Treasury officials say the figure will decrease over time because of tighter regulations created under the Clinton administration.

Will the new rules raise the $45 billion that Clinton said he would draw from foreign companies over four years? ''It would be nice to say, 'Here's what's going to happen,' but I don't think anyone in the trenches can reliably say that,'' said Samuels, the former Treasury tax policy chief.

One group of lawmakers says the transfer-pricing system must be scrapped. In its place, they propose a formula similar to what the states use now to determine what portion of a company's profits can be taxed. The formula bases the tax on what portion of a company's sales, property and personnel are in each state.

The Treasury Department, under pressure from Sen. Dorgan, is holding a conference this year to consider how such a formula might be created.

A $143 MILLION JOLT

Every year, the US government spends $143 million to help generate electricity and run recreation programs for Tennessee and six neighboring states. Now 63 years old, the Tennessee Valley Authority keeps the region's electricity rates low.

By contrast, electric rates in Massachusetts are high. And that is a key reason Lexington-based Raytheon Co. last year threatened to take 15,000 jobs out of state unless it won $40 million in tax and electric rate relief. Had it left, Raytheon's likely new home would have been in Tennessee. In other words, says US Rep. Martin T. Meehan, a Lowell Democrat, Washington collected tax dollars from Massachusetts, then sent them to Tennessee, effectively helping to lure Massachusetts jobs.

Now, Fidelity Investments of Boston and the mutual fund industry, as well as life insurance companies, are demanding similar tax relief. Increasingly, other states find themselves being forced to offer tax breaks to businesses that threaten to leave town.

''This is one of the most egregious forms of corporate welfare, because the company essentially holds the state up to ransom,'' Labor Secretary Reich says. ''It's bad, because it's a zero-sum game. No new jobs are created. . . . From the national standpoint, this is money that is subsidizing companies with no net benefit whatsoever.''

Furthermore, tax breaks don't always save jobs. Raytheon this year is trying to buy out 4,400 workers whose jobs the tax relief intended to save. In 1993, Digital Equipment Corp. angered Boston officials when it closed its Roxbury factory and laid off 190 workers after taking $7 million from the city in financing, tax cuts and other subsidies.

Now, some are calling for the federal government to step in. Last year, Massachusetts delegates to an annual small business conference at the White House urged the president to ban the use of federal money in interstate bidding wars.

Congress could tax businesses on the value of the incentives they receive from states, or it could deny federal funding to states that get into bidding wars. It also could bar states from using federal grant money or government-backed loans in incentive packages.

Massachusetts at times has used federal dollars to lure businesses. Springfield, for example, this year beat out sites in six other states to be the home of a new customer service center for First Notice Systems of Medford, which could employ as many as 900 people. As an incentive, the city offered federal funds to train company workers. It also borrowed money from the federal government and used the cash, in essence, to give First Notice a low-interest loan for building renovations.

CORPORATE DARLINGS

Businesses like the tax breaks because, unlike spending programs and direct subsidies, they are outside the federal budget and therefore not subject to Revenue Service for tax rebates on weapons programs that date to the early 1980s. The IRS says the tax credits are not deserved, since the Pentagon paid for the weapons research and usually covers the costs even of failed weapons programs. But the companies have won an early round in the courts, arguing that the Pentagon paid for the weapons, not the research that produced them. The tax refunds could total billions of dollars.

Each tax break is a choice, favoring one group of taxpayers over another. Export rules, for example, favor exporters over companies that sell in the US. The ''runaway plant loophole'' favors companies that hire foreign workers over companies that strive for the ''Made in the USA'' label.

Most broadly, corporate tax breaks generally favor wealthy Americans over the less-well off. Tax benefits are designed to help businesses create jobs, but when corporations win a tax break it is the owners of the company who gain most.

Last December, with Republicans and Democrats deadlocked over a plan to end a 21-day shutdown of the federal government, 91 corporate chief executives signed a two-page newspaper advertisement that urged Congress to balance the budget. ''Without a balanced budget, the party's over. No matter which party you're in,'' the ad said.

Seven of the CEOs were from companies that take advantage of a major tax break for purchasing new equipment, which costs the US $26 billion a year. Exxon saved $760 million because of the so-called accelerated depreciation rules, according to calculations by the Center for the Study of Responsive Law, a Washington-based Ralph Nader group. Ford Motor Co., Chrysler Corp., DuPont and others that signed the ad saved hundreds of millions dollars more.

General Motors is a major recipient of federal technology grants. Kodak claimed $37 million in export and manufacturing tax credits last year. In 1994, IBM paid no US taxes on $11 billion in profits it earned overseas, while the US Labor Department reported that 1,755 IBM jobs were moved abroad.

''How can you demand that the budget be balanced when you're taking tax breaks like this?'' asked Janice Shields, a former accounting professor now with the watchdog group. ''These things save the companies from going into debt, but it's causing the country to do that.''

Ms. MIKULSKI. Mr. President, I rise in support of the jobs export subsidy amendment. This amendment will help to end the exodus of U.S. manufacturing industry overseas by eliminating a provision in the tax law that encourages and rewards that exodus.

How does the Dorgan amendment do this? It ends the tax deferral on profits of overseas U.S. companies who move plants to foreign tax havens then ship products back to the United States for sale.

This amendment eliminates a tax subsidy that is unfair to America's workers, that is unfair to taxpayers, and that is unfair to domestic companies.

Current law provides an incentive to move. We are actually rewarding companies for killing U.S. jobs. That

makes absolutely no sense. How can this Congress say it is for working families when we reward multinational firms who move their jobs overseas?

Since 1979, our country has lost 3 million good-paying manufacturing jobs. This tax break is one reason why. We can't afford to lose one more job, and that's why we need this amendment.

Current law costs the American taxpayer. The Joint Economic Committee estimates this subsidy will result in $2.26 billion over 7 years in lost revenues. If we are serious about giving taxpayers a break, and in reducing our deficit, this is one tax subsidy we just can't afford.

Current law actually puts companies that remain in the United States at a competitive disadvantage. We don't reward the good guys. We don't provide a tax break for them for keeping jobs here at home. Instead we make it harder for them to compete by giving an edge to those who move jobs overseas. This amendment will help create a level playing field so the ''good guys'' have a fair chance to compete.

It's important to understand what this amendment does not do. It does not hinder U.S. companies that produce abroad from competing with foreign firms in foreign markets. It does not burden companies with a new tax. It simply eliminates the special tax treatment given to overseas U.S. companies.

I urge my colleagues to support this amendment. It's good for America's workers. It's good for the taxpayers. It's good for America's domestic companies.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERREY. Mr. President, I am going to talk here for a bit until we can get a final group of amendments, which we would like to offer. Both the chairman and I have agreed to those. We should be able to get that list put together soon. One is an amendment that I and about 10 or 12 other Senators offered, having to do with reorganization of the IRS. The language of the amendment says:

The Internal Revenue Service is prohibited from expending funds for field office reorganization until the National Commission of Restructuring the IRS has had an opportunity to issue the final report.

The chairman has agreed to accept that language into this bill. Let me be clear that my intent is to change it when we get into conference. The idea is not to postpone this until after the final commission report. That, to me, would be an inappropriate thing for us to do.

What is appropriate is to ask the Treasury Department to come up with a justification on customer service, a justification on cost-effectiveness, and a number of other areas, which they currently have not done. They are talking about actually doing a reduction of force of about 2,300 at a time. For example, they are also proposing to fire another 14 or 15 upper-echelon executives. Some other questions have been raised by a number of Members. That is what this amendment is attempting to do.

It will be my intent to modify that language once we get to conference.

Mr. SHELBY. Mr. President, I ask unanimous consent that the pending committee amendments be temporarily laid aside.

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

AMENDMENTS NOS. 5225 THROUGH 5232, EN BLOC

Mr. SHELBY. Mr. President, I send a group of amendments to the desk, en bloc, and ask for their immediate consideration.

The amendments are as follows: One is for myself to extend the pilot program authority provided by the GMRA until December 31, 1999; one for Senator STEVENS to clarify section 645 of the bill; one for Senator MIKULSKI regarding closure of an alley in the District of Columbia for construction of a Federal building; one for Senators MACK and GRAHAM to transfer a property for animal research; one for Senator D'AMATO to provide criminal sanctions for fictitious financial instruments; one for Senator GREGG regarding distribution of Federal employees' names; one for Senator KOHL, a sense-of-the-Senate resolution, regarding IRS telephone service; one for Senator KERREY regarding the IRS reorganization.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes amendments numbered 5225 through 5232, en bloc.

Mr. SHELBY. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 5225

(Purpose: To extend the OMB's authority to streamline financial management authority under the GMRA pilot program)

On page 135, after line 4 insert the following new section:

SEC. . Subsection (b) of section 404 of Public Law 103–356 is amended by deleting ''September 30, 1997'' and inserting ''December 31, 1999''.

AMENDMENT NO. 5226

(Purpose: To provide for a Government accounting of regulatory costs and benefits of major rules, and for other purposes)

On page 134, line 7 strike all through page 135, line 4, and insert the following:

SEC. 645. REGULATORY ACCOUNTING.

(a) IN GENERAL.—No later than September 30, 1997, the Director of the Office of Management and Budget shall submit to the Congress a report that provides—

(1) estimates of the total annual costs and benefits of Federal regulatory programs, including quantitative and nonquantitative measures of regulatory costs and benefits;

(2) estimates of the costs and benefits (including quantitative and nonquantitative measures) of each rule that is likely to have a gross annual effect on the economy of $100,000,000 or more in increased costs;

(3) an assessment of the direct and indirect impacts of Federal rules on the private sector, State and local government, and the Federal Government; and

(4) recommendations from the Director and a description of significant public comments to reform or eliminate any Federal regulatory program or program element that is inefficient, ineffective, or is not a sound use of the Nation's resources.

(b) NOTICE.—The Director shall provide public notice and an opportunity to comment on the report under subsection (a) before the report is issued in final form.

AMENDMENT NO. 5227

(Purpose: To provide for the closing of an alley owned by the United States to allow construction of a facility for the United States Government in the District of Columbia)

On page 93, after line 19 insert the following new section:

SEC. . FACILITY FOR THE UNITED STATES GOVERNMENT

(a) CLOSING OF ALLEY.—The alley bisecting the property on which a facility is being constructed for use by the United States Government at 930 H Street, N.W., Washington, District of Columbia, is closed to the public, without regard to any contingencies.

(b) JURISDICTION.—The Administrator of General Services shall have administrative jurisdiction over, and shall hold title on behalf of the United States in, the alley, property, and facility referred to in subsection (a).

AMENDMENT NO. 5228

(Purpose: To transfer certain property to be used as an animal research facility)

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

SEC. . (a) Notwithstanding any other provision of law, the Secretary may, on behalf of the United States, transfer to the University of Miami, without charge, title to the real property and improvements that as of the date of the enactment of this Act constitute the Federal facility known as the Perrine Primate Center, subject to the condition that, during the 10-year period beginning on the date of the transfer—

(1) the University will provide for the continued use of the real property and improvements as an animal research facility, including primates, and such use will be the exclusive use of the property (with such incidental exceptions as the Secretary may approve); or

(2) the real property and improvements will be used for research-related purposes other than the purpose specified in paragraph (1) (or for both of such purposes), if the Secretary and the University enter into an agreement accordingly.

(b) The conveyance under subsection (a) shall not become effective unless the conveyance specifies that, if the University of Miami engages in a material breach of the conditions specified in such subsection, title to the real property and improvements involved reverts to the United States at the election of the Secretary.

(c) The real property referred to in subsections (a) and (b) is located in the county of Dade in the State of Florida, and is a parcel consisting of the northernmost 30 acre-parcel of the area. The exact acreage and legal description used for purposes of the transfer under subsection (a) shall be in accordance with a survey that is satisfactory to the Secretary.

(d) For the purposes of this section—

(1) the term ''Secretary'' means the Secretary of Health and Human Services; and

(2) the term ''University of Miami'' means the University of Miami located in the State of Florida.

AMENDMENT NO. 5229

(Purpose: To prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes)

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

SEC. . CRIMINAL SANCTIONS FOR FICTITIOUS FINANCIAL INSTRUMENTS AND COUNTERFEITING.

(a) INCREASED PENALTIES FOR COUNTERFEITING VIOLATIONS.—Sections 474 and 474A of title 18, United States Code, are amended by striking ''class C felony'' each place that term appears and inserting ''class B felony''.

(b) CRIMINAL PENALTY FOR PRODUCTION, SALE, TRANSPORTATION, POSSESSION OF FICTITIOUS FINANCIAL INSTRUMENTS PURPORTING TO BE THOSE OF THE STATES, OF POLITICAL SUBDIVISIONS, AND OF PRIVATE ORGANIZATIONS.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 513, the following new section:

''§ 514. Fictitious obligations

''(a) Whoever, with the intent to defraud—

''(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

''(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

''(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through the United States,

any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving through scheme or artifice, to be an actual security or other financial instrument issued under the authority of the United States, a foreign government, a State or other political subdivision of the United States, or an organization, shall be guilty of a class B felony.

''(b) For purposes of this section, any term used in this section that is defined in section 513(c) has the same meaning given such term in section 513(c).

''(c) The United States Secret Service, in addition to any other agency having such authority, shall have authority to investigate offenses under this section.''.

(2) TECHNICAL AMENDMENT.—The analysis for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 513 the following:

''514. Fictitious obligations.''.

(c) PERIOD OF EFFECT.—This section and the amendments made by this section shall become effective on the date of enactment of this Act and shall remain in effect during each fiscal year following that date of enactment.

Mr. D'AMATO. Mr. President, I would like to commend the distinguished chairman and ranking minority member of the Treasury Appropriations Subcommittee. Thanks to their efforts, we have reached an agreement to include my amendment into this important legislation. This amendment incorporates the text of S. 1009, the Financial Instruments Anti-Fraud Act. This bill has bipartisan support and has been cosponsored by Senators LIEBERMAN, GRASSLEY, JOHNSTON, BRYAN, BOND, and FRAHM.

Mr. President, over the past several years, innovative criminals have exploited a loophole in Federal anti-counterfeiting laws. These laws do not specifically criminalize the production or passing of a phony check, bond or security if is not a copy of an actual financial instrument. Criminals are now making and passing completely fictitious financial instruments. These instruments may involve, for example, a bank, an asset or a security that does not even exist.

Under existing Federal and State law, in order to prosecute a criminal who produces or passes a completely fictitious instrument, the criminal must use the wires or mails, or deposit the instrument in a bank. These laws simply do not prohibit the making and passing of fictitious financial instruments.

The International Chamber of Commerce estimates that frauds involving fictitious financial instruments cost investors around the world $10 million per day. The Office of the Comptroller of the Currency reports that in the first 6 months of 1996, con artists have attempted to pass more than $3 billion in fictitious instruments in the United States.

In many cases, criminals who are caught attempting to perpetrate these frauds cannot be prosecuted. That is wrong. This loophole must be closed.

On July 17, the Banking Committee held hearings on this issue. Charitable institutions such as the Salvation Army and the National Council of Churches of Christ testified that they lost millions of dollars in these scams. The committee also heard testimony from a private institution in North Carolina that paid out on a fictitious financial instrument.

Mr. President, there is another sinister side to these frauds. Antigovernment groups use fictitious financial instruments to commit economic terrorism against Government agencies, private businesses, and individuals. Prior to their 81-day siege, the Montana Freemen passed fictitious instruments called comptroller warrants. The Freeman used these instruments to stockpile food, water, gasoline, and even vehicles.

This past April, a California woman, Elizabeth Broderick, was arrested for mail fraud and conspiracy for passing comptroller warrants to banks, automobile dealers, bail bondsmen and even the IRS. Ms. Broderick, who calls herself the Lien Queen, has held seminars on how to produce and pass phony checks, charging her students $125 each. Federal authorities monitored the Lein Queen's activities for several years. They finally were able to arrest her only after she slipped and used the mails to send some of her phony checks.

Fictitious instruments are an important source of funds for antigovernment groups. The Lien Queen attempted to pass more than $124 million in phony checks. LeRoy Schweitzer, the founder of the Montana Freemen, successfully passed more than $85 million in phony notes, netting more than $670,000 in profits.

Armed antigovernment groups such as the Freemen use fictitious instruments to undermine the banking and monetary systems of the United States. These groups believe that the Federal Government has declared war on its citizens, and that Federal institutions such as the Federal Reserve must be destroyed.

My amendment would close this loophole. The amendment would give Federal agents the tools necessary to prevent millions of dollars in losses to banks, mutual funds, and individuals.

Under this amendment, criminals found guilty of trafficking in fictitious financial instruments would face up to 25 years in prison.

Mr. President, the Banking Committee has worked closely with the Treasury Department and the Secret Service to develop this legislation. I would like to thank my colleagues who are cosponsors of the bill and the floor managers. Federal law enforcement officials need this weapon to combat this new brand of financial fraud and to protect our financial institutions.

AMENDMENT NO. 5230

(Purpose: To prohibit distribution of federal employee personal information without consent of the individual)

On page 135, after line 4, add the following new section:

SEC. . None of the funds appropriated by this Act may be used by an agency to provide a Federal employee's home address except when it is made known to the Federal official having authority to obligate or expend such funds that the employee has authorized such disclosure or that such disclosure has been ordered by a court of competent jurisdiction.

Mr. GREGG. Mr. President, earlier this year the Vice-President of the United States, ALBERT GORE, directed the Office of Personnel Management [OPM] to make available to the Federal Employees' Union the home addresses of all Federal employees regardless of their affiliation with the Federal Employee Union. The Administration claims this is just a step to enable the unions to communicate with employees in an emergency.

Subsequently, on March 8, 1996, OPM published in the Federal Register a notice of proposed rulemaking which raises considerable privacy concerns and in my opinion severely undermines the Privacy Act of 1974. Citing as its reason for the new rulemaking—the confusion and turmoil caused by the Government shutdowns—OPM proposed permitting Federal agencies to release employee addresses to recognized Federal labor organizations. This notice went on to state that, ''OPM has determined that the most current home addresses of OPM employees are contained in the payroll system records.

Because this system is updated for changes annually by OPM employees and is automated, it is the most efficient, as well as the most accurate, mechanism for releasing this information.''

What perplexes me is that if the Federal Employee Union is interested in obtaining the addresses of all Federal employees, the union itself should ask for the addresses. The idea of mandating the availability of Federal employee addresses is outrageous and a direct violation of the Privacy Act of 1974. The Federal Government cannot and should not make available to the Federal labor unions the addresses of all Federal employees regardless of their union or non-union affiliation. This would not be permitted under my amendment.

My amendment is a simple one. It states that no Federal funds will be made available to the OPM or any other Federal Government agency to provide Federal Government employee addresses to anyone unless authorized by that given employee or ordered by a court of competent jurisdiction.

I ask unanimous consent that a July 28, 1996 Washington Post article, and a subsequent letter to the editor appearing in the Washington Post on August 12, 1996, be printed in the RECORD following my remarks.

I want to thank the chairman and ranking member for making my amendment part of their managers' amendment and I yield the floor.

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

[From the Washington Post, July 28, 1996]

THE ERA OF JOB INSECURITY

(By Mike Causey)

If you think the words ''Uncle Sam'' still mean total job security, chances are you have been out of touch for a while.

In the past, about 33 percent of the people who hired on with government made it to retirement. Turnover was low compared with many private companies. But the image of the government as a rock-steady employer may be gone with the wind.

Even the Internal Revenue Service—one of the government's few moneymaking operations and an agency that has detailed plans to keep trucking AFTER a major nuclear attack—is having layoffs.

The Defense Department is shrinking rapidly. The once-glamorous National Aeronautics and Space Administration is getting smaller, and congressional Republicans still want to see the Commerce Department disappear altogether.

Working for the government today is a little like being in a big crowd at an outdoor rock concert during a violent electrical storm: Some people won't even get wet, or know it if they do. Others will get wet but won't get hurt. But a few may end up on the receiving end of a bolt of lightening. Welcome to ''stable'' federal employment, 1996 style.

Several things have combined to make government service less binding. They include the new retirement system (with its portable 401(k), which doesn't lock employees into a pension plan); the end of the Cold War; the new emphasis on deficit reduction and the adoption of ''reengineering'' as a form of New Age religion.

Federal unions have taken reengineering in stride. They are supporting President Clinton for reelection, even though he is campaigning on his success in eliminating 231,000 federal jobs. It could have been worse, and it will be if Republican Robert J. Dole is elected, unions tell members.

Unions soon will be able to reach members (and nonmembers) at home, thanks to a White House order telling agencies to give their employees' home addresses to unions. This isn't a political payoff, both sides say, but a way to allow unions to communicate with employees during emergencies. House Republicans are furious, contending that the arrangement violates the privacy rights of federal workers.

In the meantime, congressional Republicans have shut down two styles of buyouts, which, for want of better terms, might be called the ''Golden Handshakes'' and ''Zombie Buyouts.''

Golden Handshakes involved paying retirement-age workers as much as $25,000 to retire. Zombie Buyouts are so named because some agencies revived the program (which legally died last year) to offer another chance at buyouts to employees this year.

Members of Congress think some agencies milked buyouts when they offered employees as much as $25,000 to leave and then paid them big-buck bonuses to delay their departure. Those employees got bonuses and buyouts.

Because of concerns about past buyouts, future buyouts in non-Defense agencies will be selective and closely monitored.

In parts of the IRS, one in every four employees is facing layoff. That includes about 2,000 workers in the Washington area. The IRS has asked for limited buyout authority, and the Senate is working on allowing the agency to give buyouts to early retirees. But the IRS has determined that nobody who is eligible for either regular or early retirement will get a buyout, even if Congress approves them for early retirees.

The Agency for International Development also is seeking limited buyout authority. Rep. Benjamin A. Gilman (R–N.Y.) is pushing the plan. It would allow AID to pay severance of as much as $25,000 to as many as 100 workers—none of them eligible to retire—who agree to resign. Normally employees who resign can't get severance. The plan, supported by the White House and congressional leaders, would let AID—and maybe other agencies—have what amounts to buyouts without offering buyouts. It also sends a message to retirement-age workers that the era of buyouts, for them, may be gone.

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[From the Washington Post]

SAFEGUARD THE PRIVACY OF FEDERAL EMPLOYEES

As the concerned wife of a federal employee, I implore The Post: Please tell me that Mike Causey misspoke in his July 28 column ''The Era of Job Insecurity'' [Metro]. Mr. Causey reported that the Clinton administration has ordered federal agencies to give the home addresses of their employees, including nonmembers, to federal unions. The unions and the Clinton people claim this is just a step to enable the unions to communicate with employees in emergencies.

While government employees' names, grades and salaries are matters of public record, until now, their home addresses have not been publicly available.

How are the unions going to ensure that some disgruntled person with access to the lists of home addresses—someone who is currently undergoing a tax audit, for example—doesn't start sending threatening letters to the home of the auditor who is assigned to her case? Or what if she decides to drop by the auditor's home for a personal confrontation?

I have no doubt that agencies will try to withhold the addresses of some of their employees—FBI agents, IRS criminal investigators, etc.—because they might be harassed at home. One has to wonder, through, why a secretary at the FBI or a personnel staffer at the National Archives shouldn't be entitled to the same respect for her privacy. Additionally, many federal workers are married to other federal employees. What happens when the FBI secretary is married to an FBI agent? How does the FBI manage to give the union the secretary's home address without also handing over the home address of the agent?

It's true that we give our addresses out to our friends, associates and businesses, such as bank and department stores, all the time. But that choice is ours, and we freely assume any risks attached to the release of our addresses. Additionally, we can limit the amount of information we provide to any particular person or institution. The public library has my home address, but it has no information on what either my husband or I do for a living. The same is true of various museums and charities. No one who comes across our address on a membership renewal form has any reason to associate us with the government, unless we choose for them to have that information.

Having been both a tax law specialist in the disclosure function at IRS and a personnel staffer with that agency, I am somewhat familiar with the obligation of federal agencies to safeguard information they collect. I'm curious as to whether any privacy considerations come into play here. My own gut reaction is that federal agencies have no business handing over the addresses of their employees to unions or to anyone else who asks for them.

Regina F. McCormick—New York.

AMENDMENT NO. 5231

(Purpose: To express the sense of Congress that the level of telephone assistance provided by the Internal Revenue Service to taxpayers should be increased)

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

SEC. . SENSE OF CONGRESS REGARDING TELEPHONE ASSISTANCE PROVIDED BY INTERNAL REVENUE SERVICE.

It is the sense of the Congress that the Internal Revenue Service should, in implementing any reorganization plan or otherwise, make all efforts to increase the level of service provided to taxpayers through its telephone assistance program. It is further the sense of the Congress that the Internal Revenue Service should establish performance goals, operating standards, and management practices which ensures such an increase in customer service.

AMENDMENT NO. 5232

On page 26 after line 9 add the following new section:

The Internal Revenue Service is prohibited from expending funds for the field office reorganization plan until the National Commission on Restructuring the Internal Revenue Service has had an opportunity to issue their final report.

Mr. CONRAD. Mr. President, this amendment would disallow funds for the Internal Revenue Service to execute their field office reorganization plan until the National Commission on Restructuring the IRS has had an opportunity to issue its final report.

The amendment addresses the recent proposal by the IRS to downsize the offices of its headquarters and those in

the field. Recently, the IRS announced that it will cut back 3,300 employees at sites around the country and hire 1,400 new employees to do the same work at another location. While this Congress has routinely supported initiatives to eliminate unnecessary positions at Federal agencies, I worry that this recent decision at the IRS will do nothing to aid taxpayers in America and may reduce the level of customer service taxpayers deserve.

The IRS formulated this plan, without regard to final decisions on fiscal year 1997 spending levels, in order to consolidate the administrative operations of their field offices. Because these offices are to remain open, there does not seem to be a reason for rehiring 1,400 people to perform the jobs that are capably being done in the field. In my own State of North Dakota, our taxpayers will lose many people who provide front-line services such as a public affairs officer, a taxpayer education coordinator, and several others who provide the critical liaison between the taxpayer and the IRS. I fail to see how shifting these positions to larger metropolitan areas will increase the efficiency of work already being done.

Mr. President, I receive many letters every year from concerned North Dakotans who have exhausted several hours and days attempting to reach representatives of the IRS. Their complaints have only intensified over the years. This recent decision by the IRS will only worsen an already tenuous relation between taxpayers and the IRS.

This amendment prevents the IRS from taking these actions in their field offices until the National Commission to Restructure the Internal Revenue Service has had a chance to report back to Congress on the troubles facing the IRS and their possible solutions. Until the Congress has had a chance to evaluate and propose solutions to many of the predicaments at the IRS, it does not make sense to frustrate taxpayers with a pointless restructuring plan which does nothing to better serve their needs. I ask my colleagues to support this amendment.

Mr. SHELBY. I ask unanimous consent that these amendments be considered and agreed to, en bloc, and that accompanying statements be placed at the appropriate place in the RECORD.

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

The amendments (Nos. 5225 through 5232), en bloc, were agreed to.

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

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

The motion to lay on the table was agreed to.

WESTERN STATES HIGH INTENSITY DRUG TRAFFICKING AREA

Mr. CAMPBELL. Mr. President, I take this opportunity to join my distinguished colleagues from the West in recognizing the alarming rise in drug trafficking plaguing our region of the country. Included in the committee report to accompany this measure, there is language giving consideration for this problem, with special consideration for the State of Colorado. The committee further directed the Office of National Drug Control Policy to evaluate the drug problem in the Rocky Mountain region and elsewhere, and report its findings back to the committee.

Would the Senator from Alabama yield a few moments at this time to enter into a brief colloquy?

Mr. SHELBY. I would be happy to yield to the Senator from Colorado.

Mr. CAMPBELL. I thank the Senator from Alabama.

As chairman of the subcommittee with jurisdiction, the Senator from Alabama is aware of the drug problem facing the entire country.

I would like to point out the efforts of the Rocky Mountain Division of the Drug Enforcement Agency. In cooperation with numerous State and local law enforcement agencies, DEA has presented a proposal to the Office of National Drug Control Policy to have the region identified as a high intensity drug trafficking area. For example, at the Treasury, Postal and Government Operations Subcommittee hearing of June 26, the ONDCP Director, General McCaffrey, cited the drug smuggling problem in Denver, CO. Thorough investigations by law enforcement personnel indicate that the trafficking problem centered in Denver impacts not only the neighboring States of Utah and Wyoming, but also the rest of the Nation. In addition, evidence suggests that Denver serves as a transshipment point between Los Angeles, Mexico, and the east coast.

Based upon the actions taken by the appropriate law enforcement agencies in the Rocky Mountain region, as well as the advanced stage of their pending request to be identified as a high intensity drug trafficking area, I take this opportunity to request that the Senator continue to work with me to address this matter.

Mr. SHELBY. I look forward to working with the Senator on this matter. I know how important combating the drug trafficking problem is to the communities in the Rocky Mountain region.

Mr. CAMPBELL. I thank the distinguished Senator from Alabama for his consideration and I yield the floor.

Mr. HATCH. Mr. President, I want to commend my esteemed colleague from Colorado, Senator CAMPBELL, for his vision and hard work on the drug trafficking problem in the Rocky Mountain region. I join him today in supporting the committee's focus on the unfortunate, growing tragedy in our region.

The Rocky Mountain region contains three important States. My home State of Utah, Colorado, the home State for my colleague, Senator CAMPBELL, and the State of Wyoming. It is important that the DEA and other Federal and State drug enforcement officers be able to accomplish their important tasks in each of these States, and the citizens of each one will benefit greatly from this project. It clearly is appropriate to this Senator that the Office of National Drug Control Policy should designate the States of Utah, Colorado, and Wyoming for increased assistance in the fight against drug traffickers.

Again, I want to thank my colleagues Senators SHELBY and KERREY for their leadership and hard work on this important legislation. I yield the floor.

GANG RESISTANCE EDUCATION AND TRAINING PROGRAM

Mr. GRASSLEY. Would the distinguished chairman of the Treasury-Postal Appropriations Subcommittee yield to a question?

Mr. SHELBY. I would be happy to yield to my friend, the Senator from Iowa.

Mr. GRASSLEY. I fully agree with the statement in the committee's report that the Gang Resistance Education and Training [GREAT] Program has proven to be highly successful. It is my understanding that the committee has provided funding for an expansion of the GREAT Program. Is my understanding correct?

Mr. SHELBY. I thank the Senator from Iowa for his support of this worthwhile program. It has proven to be very successful and very popular with State and local law enforcement authorities. The Senator is correct. The committee has provided funds for an expansion of the GREAT Program.

Mr. GRASSLEY. The Sioux City, IA, police department was one of the first agencies in my State to do a pilot GREAT Program in a public school environment. Because of their participation in the GREAT Program, this school in Sioux City went from a high-risk school to being recognized as one of Iowa's First In the Nation in Education [FINE] schools this past year. This is a significant and very important turnaround. I would urge my friend, the Senator from Alabama, to give serious consideration to adding Sioux City to the GREAT Program during the conference on this bill.

Mr. SHELBY. I can assure the Senator from Iowa that we will give Sioux City every consideration during the conference on this appropriations bill.

Mr. GRASSLEY. I thank the Senator for his assurance.

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

Mr. KERREY. Mr. President, as I understand it, we are going to go out relatively soon.

PRAISING THE FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION

Mr. HOLLINGS. Mr. President, I wanted to say a word of praise for James Lee Witt of the Federal Emergency Management Administration. I was highly critical back during Hugo,