First, they noted that the funds authorized by the bill to perform the checks and operate a new clearinghouse within the Department may be prohibitive. The Biden-Thurmond substitute the Senate considers today addresses those concerns. In a change from the measure reported by the committee, the substitute authorizes the Attorney General to charge a modest fee $5 for volunteer checks. In addition, the substitute dramatically scales back the duties of the clearinghouse, now labeled the ''Office for Volunteer and Provider Screening.'' Where the bill as reported charged the clearinghouse with developing model fitness standards and applying standards against each applicant utilizing the resources of the clearinghouse, the version we consider today eliminates this fitness determination requirement. While I still feel it would be preferable for the Department to assist qualified entities in making these fitness determinations, the substitute provides that model standards will be developed and envisions qualified entities then using these standards to make their own fitness determinations. S. 1868 as reported by committee authorized $180 million over five years to cover the costs of volunteer checks and to establish the clearinghouse. The vision we consider today has scaled this authorization back to $100 million.

Second, the Department expressed concerns with language in S. 1868, added in Committee at the behest of Senator DEWINE and drawn directly from his S. 1830, which made amendments to the National Criminal History Access an Child Protection Act. There is a difference of opinion between the Justice Department and SEARCH, a group created by the States to improve the criminal justice system and the quality of justice, as to the impact of this language. Resolution has not been reached on the matter, and because I do not believe the issue raised by language drawn from S. 1830 to be directly related to the issue at hand of providing quick and effective background check results to qualified entities, the substitute the Senate considers today deletes the language objected to by the Justice Department.

Third, the Department expressed administrative and constitutional concerns with the makeup and operations of the clearinghouse described in the bill reported out of Committee. I have reviewed the Department's concerns and find them to be valid. The language objected to by the Department is not a part of the substitute amendment considered today.

Since introduction of S. 1868, through the Committee markup process, and stemming from extensive discussions regarding this measure over the past several months, I have agreed to modify the impact of the bill in several critical ways. Raised first in Committee by Senator DEWINE, and then later by SEARCH and other groups, arguments were made to me that S. 1868 could unintentionally undercut the work done in many States to process background check requests. Senator DEWINE rightfully pointed out to me that in some States, the system that the Congress put in place after enactment of the National Child Protection Act in 1993 and the Volunteers for Children Act in 1998 is working. In those cases, we should not uproot a system that is effective. The substitute we consider today acknowledges this concern. Upon enactment, the clock will toll on a one-year period during which the Attorney General will review the extent to which States have participated in the NCPA/VCA system. At the conclusion of that one year period, the Attorney General is charged with designating states as having ''qualified state programs''. The substitute lays out several objective criteria designed to guide the Attorney General's decision. States that are quickly, cheaply, and reliably processing background checks will be recognized as having a ''qualified State program'' by the Attorney General and will continue to process background check requests as under current law. But if the Attorney General determines that a State does not have a qualified State program, based upon the criteria delineated in the version of S. 1868 we consider today, qualified entities in those jurisdictions are permitted to apply directly to the Justice Department for background checks. This legislation thus creates a separate track for qualified entities seeking national criminal history background checks. This track will only be available, however, to qualified entities doing business in States without a qualified State program, as determined by the Attorney General.

A concern has been raised during drafting of this measure that the substitute does not give the Attorney General the discretion to label a State's program as qualified for one category of qualified entities, but not qualified for another. The intention of the authors of S. 1868 is to give the Attorney General that discretion. The language of the substitute considered by the Senate today does not require the Attorney General to make a blanket determination for a State's entire universe of qualified entities. The substitute should be interpreted by the Attorney General to permit States to be qualified for some categories of qualified entities but not all categories if necessary.

Other provisions of the version of S. 1868 we consider today deserve mention. SEARCH and others have suggested to me that one of the main impediments States face in fully implementing the NCPA/VCA is that current law does not authorize the Attorney General and States to deliver criminal history records information directly to qualified entities. S. 1868 changes this and makes clear that the Attorney General and States may provide this information to qualified entities should they desire to do so.

Also, we have authorized in this measure grants to the States so they can purchase so-called Live-Scan fingerprint technology. These devices permit prints to be electronically transmitted, obviating the need for fingerprint cards. Wide dissemination of this technology would facilitate nationwide background checks, and I am hopeful this grant program will be adequately funded so that this equipment can be installed throughout the country.

I would like to thank Robbie Callaway and Steve Salem of the Boys and Girls Clubs of America, Margo Pedroso of the National Mentoring Partnership, and Abby Shannon of the National Center for Missing and Exploited Children for their tireless advocacy on behalf of S. 1868. Captain David Deputy of the Delaware State Police and Director of Delaware's State Bureau of Identification offered invaluable comments throughout the drafting of this measure, and I thank him for his assistance. Thanks also to Bob Belair, General Counsel of SEARCH, for his helpful suggestions. I would like to pay a special tribute to Senator THURMOND, as well as to his Judiciary Committee counsel Scott Frick, for their dedication to this bill. I appreciate the assistance of Chairman LEAHY and Senator HATCH for agreeing to report S. 1868 out of Committee last spring. I am also appreciative of the efforts made by Senator DEWINE and his staff to move this legislation along. Finally, I thank Congressman MARK FOLEY, the author of the Volunteers for Children Act, as well as Elizabeth Nicolson and Bradley Schreiber of his staff, for agreeing to introduce this legislation as H.R. 5556 in the other body.

I remain hopeful that S. 1868 can be taken up by the other body and sent to the President for signature this year.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 11, 2001 in College Park, MD. Around 1 p.m. on National Coming Out Day, a 22 year-old woman wearing gay-supportive pins was hanging her bicycle on her car rack when a man approached her from behind and struck her on the back of the head, pushing her head into the rack and knocking her to the ground. The assailant kicked her several times and hurled anti-gay epithets, according to police. The victim was treated at the university health center for injuries sustained during the attack.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out

of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VETERANS DAY

Mr. KERRY. Madam President, on Monday I was privileged to stand with thousands upon thousands of veterans and their families who traveled to Washington to visit the Vietnam Wall for its 20th anniversary, to reconnect with those with whom we had served, and above all to honor our fallen brothers and sisters.

These veterans, some of whom traveled for days and all at their own expense, proved something I think every American knows deep down in their heart—something that cuts to the quick of what we as Americans stand for—that part of being an American means keeping faith with our citizens and those heroes who gave so much to our country. That responsibility extends to those of us who have the honor to serve here in the Chambers of Congress.

Today, my friends, after another Veterans Day where words of praise for America's veterans were spoken, at a time when it is an increasingly real possibility that more Americans will be sent into harm's way for their Nation, we must keep faith—in deeds and not just words—with the veterans of our country. We must do the duty we were sent here to do, as they did their duty wearing the uniform of our country.

Because of a 111 year-old law, when our soldiers have returned from combat wounded, debilitated by illness, missing limbs, confined to wheelchairs—disabled for life these veterans have been told that their retired pay would be reduced dollar-for-dollar for any VA disability benefits they received. Yesterday the House and Senate reached a compromise on the issue of concurrent receipt in the National Defense Authorization Act. The authorization act has been held up for weeks because the administration has threatened a veto if concurrent receipt language was included in this bill. The compromise that was reached yesterday begins to correct the injustice created by this archaic law but it does not go nearly far enough.

The compromise language applies only to veterans injured during combat, combat-oriented training, or certain other hazardous activities, with a disability rating of 60 percent or greater, and those with a rating of at least 10 percent if they received a Purple Heart. This compromise leaves a bitter taste in the mouths of anyone who believes we have a faith to keep with our veterans. On October 10, the House passed overwhelmingly a motion to instruct their conferees to accept the far more comprehensive Senate-passed concurrent receipt language—which would have provided all disabled veterans the full amount of their disability benefits and their retirement pay. There is strong bipartisan support for full concurrent receipt in both Chambers of Congress, yet because of the considerable pressure from this administration we have been forced to accept a compromise that will leave hundreds of thousands of our veterans behind.

I cannot believe that this administration is willing to tell a veteran who, through service to his country, has suffered an injury leaving him 50 percent disabled, that he is not entitled to both disability compensation and retirement pay earned for 20 years of service. Military retirees are the only category of federal employees who are required to relinquish a portion of their retirement pay when they receive VA disability benefits. Not only does this practice unjustly penalize our disabled career soldiers—it weakens our military by effectively encouraging injured servicemembers to leave the military early in their careers. We have been working for years to right this wrong. This change in law is a beginning, but much remains to be done.

The issue of compensation for our disabled veterans is only one aspect of a much larger problem—we are failing to meet our promises to the people who have so courageously served our country. Nothing punctuates this fact more than the ongoing financial crisis facing the veterans health care system.

We must address simple mathematics. From 1996 to the present, the number of veterans seeking health care from the VA has grown from 2.9 million to 4.5 million, while the VA's health care staff has decreased from 195,000 to 183,000—forcing many veterans to wait 6 months or longer for care. But this administration's continued refusal to fully fund our VA has done nothing to help them hire new staff, let alone offer better care to our Nation's veterans.

The overall thrust of their approach to this funding crisis has been to push reforms aimed at reducing enrollment in the veterans health system rather than providing the funds necessary to ensure that every veteran gets the best health care we have to offer. Even VA Secretary Principi identified a $400 million shortfall in the fiscal year 2002 budget of the VA health care system. But the administration requested only $142 million to compensate for this shortfall, and plans to make up much of the remainder of the shortfall by imposing ''efficiencies'' on a system that's already reached a crashing point.

In July Congress passed $417 million for veterans health care as part of the fiscal year 2002 emergency supplemental—to reduce waiting times for health care, keep clinics open, and establish new Community Based Out-patient Clinics. But in August the President blocked $275 million of the amount provided by Congress, announcing the administration would only spend the $142 million it requested for VA health care.

This is not the way to keep faith with our veterans. They are aging and in need of medicine and health care, they are sitting in our waiting rooms, and struggling to pay hefty bills and still afford rent and food. Many are homeless—in fact, nearly one quarter of all homeless Americans are veterans. By any measure, we are not doing enough for those who have done so much for us.

That is why I am asking the Congress to provide full funding for veterans medical care in the fiscal year 2003 VA/HUD Appropriations bill. The committee reported bills in the Senate and House both provide $25.3 billion for the VA health system, an increase of $3.3 billion over the fiscal year 2002 level, and $1.8 billion more than the administration's request for 2003.

Because we are not doing enough for our veterans, I am asking the Senate to reject the President's proposed $1,500 health care deductible for Priority 7 veterans included in his fiscal year 2003 VA/HUD budget. So far the House and the Senate have rejected the President's request to include this deductible in the VA/HUD Appropriations bill.

I am also asking this body to join me in urging the administration to rescind the VA memo dated July 18, 2002 that ordered the directors of every veterans health care network in the country to cease outreach activities such as health fairs, open houses, newsletters, and public service announcements.

And I ask the Senate to call on the VA to rescind its new regulations which require the rationing of health care. These regulations—which give priority for health care to veterans with service-connected conditions, without taking into account the medical needs of patients—could add to the VA's red tape, making the already long waiting times at many VA facilities even longer.

I believe it is also important the Senate join in supporting Senator JOHNSON's Veterans Health Care Funding Guarantee Act, which would assure adequate funding of these important priorities.

Regrettably, this administration has launched an assault on Priority 7 veterans, those who lack a service-connected disability and whose income is higher than the current VA eligibility standard—$24,500 for a single person. Priority 7 veterans have grown from 2 percent of VA patients in 1995 to about 33 percent currently—a total of 1.6 million veterans. Although this increase coincides with the 1996 law that changed the VA's eligibility system, veterans have turned to the VA mainly because they have nowhere else to go for affordable prescription drugs. These are the same people who would benefit most from a Medicare prescription drug benefit—their incomes are too high for Medicaid, but too low to handle the health system's growing reliance on expensive prescription drugs.